



Quality in Gender+ Equality Policies

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Report Analysing Intersectionality in Gender Equality Policies for Austria and the EU

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1 Introduction

The key question for the report is:

- What are the implications of the intersection of multiple inequalities for the quality of gender+ equality policies?

The research questions for STRIQ listed in the Annex to the Contract at p. 32 are:

- How are inequalities and their intersections conceptualised in terms of their structure and mechanisms?
- To what extent does context matter in the (re)production of inequalities across Europe?
- What attention must be paid to other structural (in)equalities in the making and implementing of European gender equality policies?

In order to address these questions it will be necessary to consider the possible range of meanings (or frames) of gender equality; the range of forms and meanings (or frames) of intersectionality; and the implications of intersectionality for gender equality.

2 Literature review

In the STRIQ review of intersectionality D13, one major question addressed is what is considered new about 'intersectionality' other than its name. Firstly, it is argued that an explicit focus on the theoretical dilemma of the mutual constitution rather than only additive nature of the intersection of inequalities is often taken as a starting point. Second, it is argued that the use of the texts of Crenshaw (1991) and Collins (1998) to delimit the current development of debates, has repositioned 'intersectionality' as a terrain of debate that is primarily about gender and ethnicity, rather than gender and class, or gender, class and ethnicity, about politics and culture (rather than economics), and as a debate with identity politics.

In this report, we will attempt to address the following questions: Are inequalities seen as mutually constituted? Or are they seen as added? Is gender sidelined by other inequalities? Is 'intersectionality' in Austrian policy texts expressed as being about gender and ethnicity, rather than gender and class?

Revisiting a text that is considered to be one of the most influential for the development of intersectionality theory, Crenshaw's definition of intersectionality (1991:1244) suggests that inequality axes are not essentially separate categories, and aims to introduce a methodology that 'will ultimately disrupt the tendencies to see race and gender as exclusive or separable (ibid.)'. She explicitly limits herself to exploring intersections between race and gender, while acknowledging that the concept 'can and should be expanded' by issues such as class, sexual orientation, age, and color (1991:1245). However, in her first example of structural intersectionality, it becomes clear that what she considers to be an example of the intersection of gender and 'race' is strongly linked to both class and citizenship status. She makes the argument that minority immigrant women are much more vulnerable to spousal violence due to their insecure citizenship status and their dependence on the permanent resident or US citizen spouse ('a citizen or permanent resident spouse can exercise power over an alien spouse by threatening not to file a petition for permanent residency. If he fails to file a petition for permanent residency, the alien spouse continues to be undocumented and is considered to be in the country illegally'. 1991: 1248). Also, that most women seeking help in minority community shelters are unemployed, underemployed or poor (1991:1245). It seems to be clear in her analysis, though not explicated, that **citizenship status affects gender** – the woman's insecure citizenship status makes her more vulnerable to spousal violence – and, on the other hand, **gender affects citizenship status** – in that the citizen or permanent resident (male) spouse exercises power over an alien (female) spouse that results in her continued subordinated and insecure citizenship status.

While Crenshaw implicitly sees citizenship status as influencing minority women's risk of being subjected to spousal violence, but seems to subsume citizenship status, along with 'class', under the category 'race', it is now widely recognised in feminist literature (especially for Gender-based Violence issues such as domestic violence, violence during times of war, asylum, and trafficking) that a woman's citizenship status has crucial implications for her gender. There seems to be much less attention to the question **how gender affects citizenship status** – understood as both one's own gender affecting one's own citizenship status, but also how gender relations affect one's citizenship status.

One question we are thus going to address in our report is: is **gender seen as affecting citizenship status in Austrian policy texts**? If so, in what way? Is male gendered behaviour seen as having implications for women's citizenship status? Does class and sexual behaviour affect gender relations and/or citizenship status and/or marital status?

Revisiting recent German speaking publications on intersectionality, such as Klinger/Knapp (2005)¹, and various articles in Klinger/Knapp/Sauer (2007)², and A. Senganata Müntst (2008)³, two issues seem striking: Firstly, it is evident that there is a certain unease and difficulty in finding a German term for the meaning that is covered by 'race' in Anglo-American debates. Knapp (2005:99)⁴ argues that translating of 'race' into the German speaking context is problematic, and that due to German history it is not used descriptively or in an affirmative way. This is contrary to the USA and, to a lesser extent, Great Britain, where there has been criticism of the term as well as pragmatic and affirmative use of 'race' by minorities as an identity category. For this reason, German speaking authors use a variety of strategies to cover the meaning of 'race' in German: by using a variety of definitions, mostly pointing to essentialising, naturalising and biological reasoning, by using the term only with inverted commas ('Rasse'), by using the English term 'race' or by introducing 'Ethnizität' (ethnicity) instead of 'Rasse'. Cornelia Klinger (2005:95) states that the category of ethnicity in Europe is strongly linked to territory and to the forming of nation-states, and that ethnicising usually works by invoking cultural differences.

Senganata Müntst (2008:44), citing Colette Guillaumin, points out that the term 'race' has been abandoned by natural sciences due to its lack of use and relevance. While

¹ Cornelia Klinger and Gudrun-Axeli Knapp, 2005: Achsen der Ungleichheit – Achsen der Differenz, in: *Transit – Europäische Revue*, 29 (2005), 72-95.

² Cornelia Klinger, Gudrun-Axeli Knapp, Birgit Sauer (eds.): *Achsen der Ungleichheit. Zum Verhältnis von Klassen, Geschlecht und Ethnizität*, Wien: Campus-Verlag. 2007.

³ A. Senganata Müntst, 2008: *Intersektionalität als Perspektive der Migrationsforschung*, in: *Femina Politica* 1/2008, 41-50.

⁴ Gudrun-Axeli Knapp, 2005: *Traveling Theories: Anmerkungen zur neueren Diskussion über 'Race, Class and Gender'*. *Österreichische Zeitschrift für Geschichtswissenschaften*, 16.Jg H 1, 88-110.

this does not mean that what is contained by the term has somehow vanished from social reality, she questions the desirability of re-establishing a term that is linked to fascist ideology into social science discourse (2008:44) and argues that it is necessary to analyse processes of ethnicising, racism and ideological constructs.

For this report, the **authors⁵ wish to stress** that they agree with Senganata Münt that the term 'Rasse' has been used in the German speaking context as an ideological construct that resulted in exclusion, persecution and killing of people that were categorised as belonging to the wrong 'Rasse' and that therefore it is not desirable to contribute to the re-establishment of this term in political and social science discourse. While we are aware that 'Rasse' and 'Ethnizität' have historically different connotations relating to the reasoning of difference (biological versus cultural essentialising, see above), **for lack of other alternatives the authors will consistently use the term ethnicity ('Ethnizität') to cover the meaning of the English term 'race' as well as 'ethnicity'**, unless the reference made in German explicitly refers to the ideology of 'Rasse'.

In relation to the second issue which is striking in re-visiting the German literature, some authors (Küster 2007)⁶ have explored the ways in which historically the concepts of ethnicity and 'Rasse' have informed the category of citizenship in the German speaking context. Senganata Münt (2008: 45) suggests analysing processes of ethnicising and racialisation in German speaking migration research by using societal categories that can be used by empirical research. She refers to **nationality** as such a category, pointing to the nation state as the territorial and political context into which structures inequalities have historically been inscribed. She makes the point that using the category of the nationality of migrants allows us to ask who is excluded from or included in access to resources, and that the heterogeneity of migrants can be taken into account by analysing the different positioning of migrants due to their specific nationality.

Yet, this argument does not seem applicable in **capturing positions of inequality which are consequences of processes of ethnicising people who have the same nationality as the dominant majority**. In the Austrian context, this may be the case for persons having a migration background but who have had Austrian nationality for one or two generations and for Roma and Sinti, two groups of persons who are recognised as continuously facing structural inequality and discrimination, and maybe also, to a lesser extent, to so-called 'allochthonous' minorities such as the Croats and Slovenes in Austria.

⁵ Karin Tertinegg has previously worked for the Austrian National Fund for Victims of National Socialism and thus wishes to be very clear about that she refuses the concept of 'Rasse' and thinks that to use the term in German speaking social and political science is very problematic due to its link to Nazi ideology and persecution.

⁶ Sybille Küster, 2007: Staatsangehörigkeit in Deutschland, in: Achsen der Ungleichheit. Zum Verhältnis von Klassen, Geschlecht und Ethnizität, edited by Cornelia Klinger, Gudrun-Axeli Knapp, Birgit Sauer. Wien: Campus-Verlag. 2007, 193-209.

Thus, another question we would like to answer is how **ethnicity and class are seen as affecting nationality/citizenship status** in Austrian gender+ equality policies.

The list of questions that will thus be addressed in the report is:

Common questions:

- How are inequalities and their intersections conceptualised in terms of their structure and mechanisms?
- To what extent does context matter in the (re)production of inequalities across Europe?
- What attention must be paid to other structural (in)equalities in the making and implementing of European gender equality policies?

Questions specific to the Austrian context, as derived from the literature review above:

- Are inequalities seen as mutually constituted? Or are they seen as added?
- Is 'intersectionality' expressed as being about gender and ethnicity, rather than gender and class?
- Is gender seen as affecting citizenship status? If so, in what way? Is male gendered behaviour seen as having implications for women's citizenship status?
- How is ethnicity (and class) seen as affecting nationality/citizenship status.

Answering these questions will feed back into the common three questions above and ultimately feed into answering the main question of the STRIQ report:

- What are the implications of the intersection of multiple inequalities for the quality of gender+ equality policies?

3 The range of the meanings concerning gender equality in gender+ equality policies

Firstly, a brief account of the gender+ equality policies is provided below, based on the Issue History Report and the LARG Report.

For **general gender+ equality policy**, the 2004 amendment to the federal law on equal treatment and the law on equal treatment in the private sector was the most recent and major change in general gender+ equality legislation, involving the implementation of EU-anti-discrimination directives. The introduction of various grounds of discrimination such as age, sexual orientation, religion or belief was considered a major novelty in Austrian equal treatment legislation. The Report of the Federal Government regarding the elimination of disadvantages for women 2003-2004 was chosen for analysis instead of the CEDAW Sixth periodic report as it is slightly more detailed in scope. The statement by CARITAS was chosen because it is one of the major NGOs addressing equality and discrimination issues.

For **general gender+ equality machinery**, the 2001 establishment of a Men's Policy Unit within the Ministry of Social Security was a very contested and major policy change regarding the general gender+ equality machinery. The official reasoning for establishing a men's unit was gender equality concerns and this was heavily contested by opposition parties and women's organisations. However, it was not established through the passing of a law, or through the form of any publicly accessible document, but by an internal rather than public rearrangement of departments within the Ministry for Social Security. For this reason, the law on the equal treatment commission and the equal treatment lawyer/ombudsperson 2005 was selected as a law about a major change in gender+ equality machinery for employment in the private sector. As shown in the Issue History Report, the range of scope for dealing with discrimination in employment was considerably widened for these two institutions, due to the transposition of EU-directives on discrimination for grounds other than sex. The new scope of action for these institutions was established in 2004 by the equal treatment law (BGBl 66/2004) and amended with regard to disabilities and re-named in 2005.

The creation of the men's policy unit is not mentioned in any official governmental report or policy plan, but it was the subject of several parliamentary inquiries. The first and most comprehensive of these inquiries took place shortly after the unit was established in January 2001. For this reason, we selected the 2001 written reply of the Minister for Social Security to a parliamentary inquiry as a form of 'governmental policy plan', since it contains governmental ideas about this major change in gender+ equality policy machinery.

The introduction of Gender Mainstreaming in 2001 did not have major institutional consequences. However, there were some decisions of the Council of Ministers concerning Gender Mainstreaming and the ministries established so called Gender Mainstreaming Officers. We did not select these documents for analysis.

3.1 The range of meanings of gender equality in general legislation and machinery

A central theme throughout diagnosis and prognosis in the documents analysed is the struggle to determine what is to be understood by discrimination, which inequality axis causes discrimination, who suffers from it, and for which inequality axis discrimination should be sanctioned beyond the labour market. Another central question is how to deal with discrimination that is caused by an intersection of gender with another inequality axis, and whether or not attention to another inequality axis is detrimental to gender equality. The treatment of disability in a separate law is seen as detrimental to protection from discrimination. Class only appears as being subsumed under other inequality axes in the form of inclusion of so-called 'socially weaker persons' under the prohibition of discrimination on grounds of gender, ethnic affiliation, religion or belief, age, and sexual orientation. The issue of class is located to the realm of social partners.

In the sub-issue **general gender+ equality legislation**, the legal texts locate the problem in a failure to implement EU anti-discrimination directives, and in the fact that current prohibition of discrimination in federal service is restricted to gender (including transgender persons). Objectives in the law material are combating racism, combating intolerance and protection of human rights, implementing EU equal treatment directives, and gender equality and equal representation of women and men in federal service. Implicitly, economic growth is an objective as it is argued that the elimination of discrimination will lead to less public spending for social security and better purchasing power of individual households. Policy actions proposed are equal treatment between women and men in educational and employment service regardless of family or marital status, special measures to promote women, increase women's representation, define discrimination according to EU directives, include gender-related harassment as discrimination, treat homosexual partnerships equally to heterosexual partnerships regarding social benefits, include representatives of NGOs in procedures before equal treatment commissions, and increase compensation for discrimination. Preference for a woman if a man is better qualified is refused. Discrimination of third country nationals on grounds of ethnic affiliation, religion or belief, age, sexual orientation is prohibited except for immigration, residency and labour market regulations, but allowed if it is based on 'objective reasons'.

In the governmental report, the problem is located in a failure to implement EU directives and European Court of Justice decisions on equal treatment. Objectives are equal treatment of women and men in and beyond employment in the private sector of the economy, and implementation of EU anti-discrimination and equal treatment directives.

In the debate, the Minister for Economy and Labour implicitly locates the problem in the negative effects for the labour market of equal treatment provisions. Objectives are to achieve more equal treatment and less discrimination. The Social Democratic voice locates the problem in the non-implementation of EU law, and in hierarchies of discrimination grounds (different levels of protection according to ground of discrimination). Objectives are equal treatment across all grounds of discrimination, and policy actions are the creation of two separate anti-discrimination laws, one for men and women, the other one for all other grounds of discrimination (except class). For the right-wing party voice, no problem is mentioned. Objectives are to evaluate the work and financial resources of equal treatment bodies. The Green Party voice locates the problem in: the lack of inclusion of NGO demands in the law; that the law fulfils only the minimum standard required by the EU; that victims of discrimination face financial risk if they go to court; and that the government has weakened existing structures for gender equality. The objective is to create a comprehensive anti-discrimination law.

The NGO voice (Caritas) locates the problem in that discrimination beyond employment is only covered for racial or ethnic affiliation, that positive measures for grounds of discrimination other than sex are missing, that instruments to solve conflicts are too restrictive, that the body supporting victims is not independent, and that disability as ground of discrimination is not included. Objectives are to create equal opportunities, and to guarantee equal treatment regardless of ground of discrimination. This is to be achieved by a variety of policy measures.

In the sub-issue **gender+ equality machinery**, the law implicitly locates the problem in discrimination of a person on grounds of gender, ethnic affiliation, religion or belief, age, sexual orientation in world of work and discrimination on grounds of ethnic affiliation in other areas. The objective is to treat cases of discrimination by three separate bodies, one for equal treatment for women and men in the world of work, one for equal treatment regardless of ethnic affiliation, religion or belief, age, sexual orientation in the world of work, and one for equal treatment regardless of ethnic affiliation in areas other than work. If gender intersects with another ground of discrimination, the body dealing with the equal treatment of women and men will decide.

In the governmental policy plan, the problem is articulated that gender role perceptions (implicitly: of women) changed and that the other gender (men) face new demands. Men organize themselves to make their problems heard. The objective is

modern and emancipatory policies, and implicitly to eliminate discrimination and privileges of women and men. This will be achieved by paying attention to men's needs, research on men, and co-operation with men's counselling centres.

In the parliamentary debate, the Conservative Party sees the problem that young men hinder young women's emancipation, and that men continue to disadvantage others and suppress women due to their fears. The objective is to create another vision of the world and challenge man-made hierarchical views. The policy action proposed is to provide more knowledge on men by establishing a Men's Policy Unit. The Minister for Social Security and Generations (right-wing party) sees the problem as men needing help in issues regarding poverty, divorce, single fathers, and conflicts between men and women in families. Objectives are equal treatment of women and men, which will be achieved by promoting gender equality by the Men's Policy Unit and counselling for men in need of help by the Ministry for Social Security. EU requirements to promote gender equality are referred to as justification for the Men's Policy Unit; gender mainstreaming should be evaluated critically to avoid preferring men. The Social Democratic Party voice locates the problem that women's equality has not been achieved, that politicians have the wrong perception of reality (seeing men as disadvantaged and as victims), that equal treatment between women and men is relativised by extending it to elderly, young, and disabled people, but not to non-Austrian nationals, that women's projects lack finances. The objective is to achieve real equality of women and men based on an adequate perception of reality. Policy actions proposed are amendments to Equal Treatment Laws, to introduce modern parental leave law, to change gender roles, and to take away privileges of men. The Green Party voice locates the problem in the establishment of a Men's Policy Unit without a clear concept. The objective is to achieve gender equality by redistribution of power, income, and paid and unpaid work, changing gender roles of men, reconciling job and family through a right to part-time work, and by reducing the gender pay gap. Gender mainstreaming is referred to.

The NGO text articulates as the problem that the Minister for Social Security lacks knowledge that homosexuality comprises both women and men, that the Men's Policy Unit excludes lesbians, and in relation to the equality of lesbians and gays. The objective is equality of lesbians and gays, which should be achieved by creating a department for homosexual issues at the Ministry for Social Security.

2. Roles in Diagnosis and Prognosis

In **general gender+ equality policies**, the law implicitly refers to passive actors as persons discriminated against in federal service on grounds of gender, ethnic affiliation, religion or belief, age, and sexual orientation. Third country nationals and stateless persons are not seen as passive actors. Target groups are persons

discriminated against in public service on grounds of gender, ethnic affiliation, religion or belief, age, sexual orientation, and women in federal service. Responsible actors are state actors (government, administrative units, equal treatment bodies, ministries, state as employer). The law material refers to women as passive actors; active actors are Austria and commissions for personnel decisions. Target groups are women and men seeking employment or education in federal service, also persons with free employment contracts, regardless of marital or family status, and women in federal service. Third country nationals and stateless persons are restricted target groups in the sense that discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation is generally prohibited, but unequal treatment is allowed if based on objective reasons, and allowed regarding immigration, labour market and residency regulations. In the governmental report, target groups are women and men and persons discriminated against in and beyond employment. In the parliamentary debate, passive actors are Roma women (implicit, Minister for Economy and Labour), persons discriminated against (being protected differently according to ground of discrimination), persons with Catholic or Jewish faith (Social Democratic Party), and NGOs, victims of discrimination bearing financial risk, body for equal treatment between women and men (Green Party). If target groups are mentioned, it is persons discriminated against regardless of ground of discrimination (Social Democratic Party). Active actors or responsible actors are usually not mentioned, only the Green Party mentions the government as active actor. The NGO text mentions victims of discrimination as passive actors, and implicitly persons discriminated against on grounds other than gender (norm group women and men), and persons discriminated against on grounds of disability. Target groups are deprived minorities, and implicitly persons discriminated against on grounds of race, ethnic origin, religion or belief, age, sexual orientation (should be protected against discrimination beyond employment) and female and male migrants.

In **gender+ equality machinery**, the law mentions the target group of persons discriminated against on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation (discrimination to be avoided in employment); and persons discriminated against on grounds of ethnic affiliation (discrimination to be avoided beyond employment). Responsible actors are various equality bodies, ministries, and the employer or person responsible for discrimination. The governmental report mentions men as passive actors and women as active actors, and men, men and women as target groups. Responsible actors are politicians and Men's Policy Unit. In the parliamentary debate, active actors are men and young men, passive actors women and young women (Conservative Party), men, single fathers, men concerned by poverty (Minister for Social Security), and women and single mothers (Social Democratic Party). Target groups are men (Conservative Party, Green Party, Social Democratic Party), men and women (Green Party), men in need of help (Minister for Social Security), and women and men, women, men (Social Democratic Party). Responsible actors are the Men's Policy Unit (Conservative Party, Minister for Social Security), and men (Green Party).

The NGO text mentions the Minister responsible for Women's Affairs as an active actor; passive actors are lesbians and gays. Target groups are lesbians, gays and heterosexuals (equality to be achieved), and the responsible actor is the Minister responsible for Women's Affairs and the Men's Policy Unit.

3. Location

In the sub-issue **general gender+ equality policies**, the problem and solution are most often located in the sphere of polity (discrimination in federal service), rarely in combination with economy or intimacy. The Green Party voice in the debate locates the problem in the spheres of polity/civil society and economy/polity. The NGO text locates problem and solution in polity. In the sub-issue **gender+ equality machinery**, the problem and the solution are typically located in economy/polity (legal texts). In the governmental report, the problem is located in civil society/polity (intimacy implicit); the solution is located in polity. In the debate, the problem is located in intimacy/economy/polity (Conservative Party), intimacy and economy (right-wing party), and polity (Social Democratic Party, Green Party). There is considerable emphasis by the latter two voices in the debate that the problem may be located in an incorrect perception of reality or lack of knowledge (of politicians). The solution is located in polity. The NGO text locates the problem in intimacy/polity, and also in lack of knowledge. The solution is located in intimacy/polity.

4. Norms

In **general gender+ equality policies**, the legal texts have equal treatment of women and men, and equal treatment regardless of ethnic affiliation, religion or belief, age and sexual orientation as underlying norms. Discrimination is to be avoided. Elimination of discrimination will have positive effects on social and economic participation and on economic growth. Economic growth is seen as an objective to be reached by equal treatment. Conformity with EU anti-discrimination law is an underlying norm in the law material. The governmental report has equality, gender equality and conformity with EU anti-discrimination law as underlying norms. Elimination of discrimination is seen as leading to higher competitiveness of enterprises.

In the parliamentary debate, typical underlying norms are equal treatment and equality (not burdening the labour market as underlying norm for Minister for Economy and Labour), equal treatment regardless of ground of discrimination, conformity with EU law (Social Democratic Party), efficiency and adequate resources for equality bodies, independence of equality bodies (right-wing party), and comprehensive equality, participation of civil society, equal access to justice

regardless of financial resources, and adequate resources for equality body (Green Party). In the NGO text, underlying norms are equal treatment regardless of ground of discrimination, an unbiased equality body, and equal opportunities.

In **gender+ equality machinery**, underlying norms in the law are equality, equal treatment, non-discrimination. In the governmental report, it is men's equal representation in policy process in diagnosis, and modernity and emancipation in the prognosis. In the parliamentary debate, in diagnosis it is gender equality and women's autonomy (Conservative Party, Social Democratic Party), help for men in need (right-wing party), and adequate resources and adequate perception of reality (Social Democratic Party). In prognosis, it is more knowledge on men (Conservative party), equal treatment of women and men (right-wing party), and gender equality (Social Democratic Party, Green Party). The NGO text refers to equality regardless of sexual orientation and European standards in diagnosis and equality regardless of sexual orientation in prognosis.

5. Voice

For **general gender+ equality policies**, one major difference between NGO and governmental texts is that economic growth as underlying norm is only present in the latter. The NGO text explicitly relates to positive measures regarding gender equality as a positive example for other inequality axes, and demands equal protection regardless of ground of discrimination (and inclusion of disability as ground of discrimination). The governmental texts on the other hand refer to citizenship status as an inequality axis, arguing that unequal treatment based on legal status of third country nationals and stateless persons is not prohibited if based on objective reasons, whereas the NGO text does not refer to citizenship status as a ground of discrimination. Class may also be seen as being referred to in governmental texts by mentioning persons with free employment contracts as being in a socially weaker position and to be included in the protection from discrimination on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation.

For **gender+ equality machinery**, the NGO text locates both problem and solution in intimacy/polity, whereas governmental texts rarely locate the problem in intimacy. The governmental policy plan mentions women as active actors (causing the problem of new demands for men due to changed role perceptions). Both governmental and NGO texts struggle with the question as to which inequality axis should be dealt with by which institution. The NGO text demands inclusion of sexual orientation of women into an institution that should be dealing with homosexuality, whereas governmental texts usually refer to each axis of inequality as separate. Intersection is found mostly in the argument that the intersection of gender with another ground of inequality should be dealt with by the institution responsible for gender.

We could conclude that in general gender+ equality policy inequalities are usually seen as separate. Reference to intersectionality is found in adding gender to another ground of inequality (age, sexual orientation, religion, ethnicity). Class is not generally seen as a relevant ground of inequality. It is present only in the argument that persons with free employment contracts are in a socially weaker position and should also be protected against discrimination on other grounds (age, sexual orientation, religion, ethnicity). Sexuality is present, particularly so in NGO voices. Citizenship status is usually not seen as relevant, except in the governmental text arguing that discrimination on grounds of citizenship status is allowed if it is not based on racism (ethnicity).

3.2 The range of meanings of gender equality in Non-Employment

In the sub-issue **tax-benefit policies** the problem is structured along the question of whether having children should be supported financially regardless of (Austrian and EU-) nationality and citizenship status or not. In the law, the implicit problem is that persons without Austrian nationality and persons without legal right to residency are not entitled to child-related allowances and benefit. The solution is to entitle persons whose claim to asylum was denied but who cannot be deported to such benefits under the condition that they are gainfully employed and do not receive other basic support by the state, and to pay the benefits retrospectively for children once legal residency status has been proven. Class and citizenship status are intersected in this target group, but there is no gendering.

In the governmental report, the problem articulated is that gainful employment and family work are incompatible. The solution proposed is to enhance women's position by reconciliation of job and family; this is to be achieved by increasing fathers' participation and better childcare facilities. Childcare benefits can be obtained at a higher amount for a shorter time if the other partner also cares for the child for three months.

In the parliamentary debate, right-wing parties locate the problem in mass immigration from 'every mother living in the third-world for social reasons', in abuse of asylum and the endangering of the welfare state (and of Austrian families). The Conservative Party locates the problem in decreasing birth numbers. The solution suggested is to treat parents of children who are legally in Austria equally to Austrian parents, but only if they can prove their legal residency status, because Austrian nationals must also provide documents to obtain benefits. The Social Democratic Party locates the problem in denying child-related benefits to young women with children who live, work and pay taxes in Austria. The Green Party locates exclusion from family and child-related benefits and exclusion from health insurance due to citizenship status as problems.

In the NGO text, unequal treatment linked to citizenship status resulting in the degradation of humans is seen as the main problem. The solution should be to provide child and family benefits regardless of citizenship status.

In the **sub-issue care work**, the law articulates the problem that private households arrange care illegally. The law material articulates that the problem is that private households are sanctioned for employing care workers illegally. The solutions proposed are to suspend sanctions, to extend the period for suspending sanctions, and to secure affordable care options according to the needs of the person needing care and their relatives. While the wording is de-gendered, class and disability as inequality axes are referred to (affordable care for person in need of care). The 'person performing care' is de-gendered, yet it implies citizenship/ethnicity as it refers to non-Austrian, female carers mostly from Eastern European countries.

In the governmental policy plan, the solutions proposed include support for voluntary workers and caring relatives, and encouragement for elderly people to get involved in care in order to secure ageing with dignity. Providing 24 hour care at home should preferably be performed by self-employed carers.

In the parliamentary debate, there is considerable contestation about whether or not care for the elderly ('state of emergency regarding care') is a problem. The governmental voices state that it is not a problem, and propose as the solution that care at home should be made legal and affordable. Non-Austrian carers should be legalized. Breaches of the law on employment of aliens should not be sanctioned when it comes to care at home, whereas breaches of laws regarding protecting workers, working mothers, children and young people, and tax laws should be sanctioned. It is not spelled out that there is an intersection of gender and citizenship status in 'Non-Austrian carers'. Gender equality is not referred to.

The NGO voice mentions a comprehensive regulation of 24 hour care, and information for those concerned as highest goal. Not paying social security for persons performing care is articulated as problematic.

In the sub-issue **reconciliation**, the legal texts refer to the problem as the right to part-time work for parents being insufficient. The goal is to enable reconciliation of job and family, which should be achieved by creating a right to part-time work for parents if they have been employed for more than 3 years with the same employer and if that employer has more than 20 employees. In the law material, better reconciliation of job and family, positive impact on employment of women and increase of fathers' participation in childcare are mentioned as goals under the heading 'consequences for employment and Austria as a business location'. Extending the right to part-time work to small enterprises is seen as undesirable as it

would cause unsolvable problems in hiring staff. Intersectionality is only present in family status (father, mother).

In the governmental report to CEDAW, the implicit problem is discrimination against women in employment; the explicit objective is to facilitate reconciliation of job and family.

In the parliamentary debate, the Minister for Economy and Labour locates the problem in harm to the labour market (if the right to part-time work is created and flexibility is taken away). Freedom of choice among young parents is the highest goal, and a family friendly world of work should be enabled. The right-wing party voice locates the problem in the economic failure of society (if there are no structures allowing children to grow up), and in the state forcing equality by introducing a daddy month. Families should be enabled to have children, freedom of choice should be offered, fathers should be included in childcare, and the privilege of a close relationship to their child in the first months should not be taken away from women. Allowing the father to enjoy the newborn child 24 hours a day cannot be afforded. The Social Democratic Party voice locates the problem in the exclusion of people working in smaller enterprises and employed for less than three years from the right to part-time work, and that it is still dependent on the employer's agreement. Objectives are to enable reconciliation, to increase the responsibility of fathers, and to enhance the relationship between fathers and children. The Green Party mentions gender equality as a problem, as mainly women suffer from disadvantages of part-time work, the majority of female employees are excluded from the right to part-time work and measures to encourage fathers to take up part-time work are lacking.

The NGO text locates the problem in that women will be disadvantaged by freedom of choice as part-time employment cannot secure a living and causes increased dependency on partners and an increased gender pay gap. Objectives are to facilitate reconciliation, which should be achieved by creating structural conditions to go back to full-time employment as soon as possible, more childcare facilities, a general reduction of working time and extending the right to part-time work to all employees.

In the sub-issue **gender pay gap**, articulations differ mostly in locating the problem and solution either in structural conditions, or in individuals (women) or, very rarely, the state. Throughout the sub-issue, the problem is usually located in economy/polity.

The law locates the problem in (direct or indirect) pay discrimination in employment in the private sector on grounds of gender, ethnic affiliation, religion or belief, age, and sexual orientation. The proposed solution is to prohibit pay discrimination on grounds of gender, especially in relation to marital (whether married or not) or family status (whether having children or not), and on grounds of ethnic affiliation, religion or belief, age and sexual orientation, and to introduce compensation payments if pay

discrimination occurs. Assessing work of women and of men must not result in discrimination, and criteria for pay must not result in discrimination on grounds of ethnic affiliation, religion or belief, age and sexual orientation. Unequal treatment of third country nationals and stateless persons does not constitute discrimination; it is seen as justified by their legal status. The law material locates the problem that Austria does not fully implement EU anti-discrimination directives and the directive on equal treatment between women and men in employment and European Court of Justice decisions. In prognosis, equality of women and men is mentioned as an aim to be achieved, as is economic growth that will result from strengthened enterprises using all available human resources in the best way. Different treatment on grounds of nationality is allowed, if it is based on 'objective reasons' and not on racist approaches.

In the governmental policy plan, the problem is located in persisting unequal opportunities, injustice and inequality regarding income in employment. The solution proposed is to close the gender pay gap by supporting atypical job choices of girls, eliminating stereotypes in evaluations of jobs, measures for a better valuation of 'women-specific' jobs, advancement of women's careers, support for women re-entering jobs, and the further development of anti-discrimination measures.

In the parliamentary debate, the Minister for Women locates the problem in (involuntary) part-time employment and girls' choice of jobs. Objectives are to enable women to have a self-determined life and to fight poverty. This should be achieved by fighting the gender pay gap with concrete measures such as encouraging girls to take atypical jobs, and to increase women's employment rate. The Conservative Party locates the problem in women's part-time work in badly paid jobs, and women's choice of humanities as studies. Objectives are to create more (high-level) part-time jobs, to enable reconciliation also for fathers, and to raise awareness in women to enable them to choose the right subjects to study. The right-wing parties locate the problem in women working in low-paid industries, unpaid stand-by time in women-specific jobs, lack of compensation for women's childcare and housework by the state, and that young women consider children as burden for their career. Equal opportunities for women in the labour market should be achieved, childcare benefits should not be paid relating to income (this would do injustice to the accomplishment of childcare), trade unions and social partners should negotiate minimum wages, and standby times should be adequately compensated for. The family with children must be put at the centre of politics. Women who renounce careers and a high income should be given highest respect by society. The Green Party locates the problem in the widening of the gender pay gap, and a lack of support for women's quota in the private sector. The reasons for the pay gap are not only care for children and family members, but also classical discrimination when entering the job, even where it is not part-time and there is no difference in education. Objectives are to reduce the gender pay gap by actual measures, and by introducing quota in the private sector.

The NGO text locates the problem in the gender pay gap in employment, which is extremely high for women in the lowest income sector. Many more women than men work in low-paid industries, but entry of women into better paid industries is not automatically connected to better pay: the gender pay gap is larger in industries with higher pay. Part-time work leads to lower income also because part-time hourly rates are lower than those for full-time. The objective is to eliminate discrimination of women in employment (implicit), to increase full-time work for women, to make it possible for adults to go back to school, to expand the qualifications of women, to introduce an obligatory pay allowance for extra part-time work, to introduce the right to part-time work for all mothers and fathers, to develop a new definition of work, to advance women, to make income transparent according to gender, to improve consideration of childcare in pensions, and to make child benefit proportional to income.

2. Roles in Diagnosis and Prognosis

In the sub-issue **tax-benefit policies**, in the legal texts passive actors in diagnosis and target groups in prognosis are persons without Austrian nationality and persons who cannot be deported to their country of origin. In prognosis, the latter target group is intersected with class in the sense that they only receive childcare benefit if they are gainfully employed and do not receive basic support from the state. In the governmental report, the target group is parents or de-gendered partners, with heterosexuality implied.

In the parliamentary debate, active actors are persons who cannot be deported and whose application for asylum has been rejected (because of asylum fraud or because they are drug dealers). Passive actors are Austrians, whose benefits would decrease. Target groups are Austrian families who should be supported to have more children. Social support is seen as good if it is restricted to Austrians and EU nationals. The Social Democratic Party voice sees young women with child/ren that live, work and pay taxes in Austria as passive actors and as a target group, and persons not eligible for asylum but who cannot be deported as another target group. The Green Party sees persons not eligible for asylum but who cannot be deported, and mothers who are not co-insured in healthcare and who do not receive maternity benefits (and their children) as passive actors and as a target group.

In the NGO text, the lawmaker and the state are mentioned as active actors. Interestingly, persons entitled to asylum, entitled to residence and persons acknowledged as refugees are mentioned as a norm group. Passive actors (and also target groups) are persons not entitled to asylum but who cannot be deported, persons acknowledged as refugees, asylum seekers and children of asylum seekers.

In **care-work**, target groups in the legal texts are every person in need of care, and relatives of persons in need of care. This implies an intersection of age and/or

disability (person in need of care) with family status and gender (relative of person in need of care), but it is not expressed.

In the governmental policy plan, additional target groups are elderly people (who should be encouraged to get involved in care), de-gendered voluntary workers (whose care-work should be supported) and de-gendered persons going back to work (understood to be women re-entering jobs after giving birth).

In the parliamentary debate, one governmental voice mentions Austrians as passive actors and a target group; she locates the problem in the disadvantaging of those who registered carers and paid social security for them until now, and calls for affordable care at home and equal opportunities for all (in order not to discriminate against 'well-trained, Austrian carers'). Relatives who care (and are predominantly female) should be supported, the 'family as the biggest caring institution' should not be questioned.

The NGO text mentions carers who are not registered as employed and do not receive social security as passive actors (gender and citizenship status is implied, but not openly expressed). Active actors are not mentioned, but implicit (Austrian private households, persons in need of care, relatives of person in need of care). The target group are 'those potentially concerned', implying gender intersected with disability or age, as it means person in need of 24 hour care due to illness, or disability often caused by age.

In the sub-issue **reconciliation**, the target groups in the legal texts are parents of small children (mothers and fathers who were employed for at least three years with the same employer and if that employer has at least 20 employees), also adoptive and foster mothers and fathers, and mothers and fathers working part-time. Fathers are also mentioned as an explicit target group in the law material (increase participation in childcare), and women (positive impact on women's employment).

In the governmental report, women figure as an implicit passive actor and target group only, while the explicit target group are parents employed for three years with the same employer, parents on part-time leave, and parents employed in a smaller enterprise.

In the parliamentary debate, the Minister for Economy and Labour mentions the lawmaker as active actor (in creating a right to part-time work), and the passive actor is the labour market (harmed by taking away flexibility). Target groups are fathers, women and mothers (whose interests would be harmed by not getting employers' consent to the right to part-time work) and young families (whose freedom of choice should not be intervened by the lawmaker). The right-wing party voice locates the problem in the economic failure of society (if there are no structures allowing children to grow up), and the active actor is the state, forcing equality by introducing a daddy

month (passive actor fathers). Target groups are families, young parents, fathers (should be included in childcare but not forced to take daddy month), and women (should be allowed the privilege of a close relationship to their child in the first months). The Social Democratic Party voice mentions people working in smaller enterprises as passive actors. Target groups are fathers, and young fathers (women should not stay at home). The Green Party mentions employees, women and female employees as passive actors, and fathers and women as target groups.

The NGO text mentions women as passive actors, and men and women, parents, and all employees as target groups.

In the sub-issue **gender pay gap**, the law has the target group male and female employees who are discriminated against on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation. Marital status and family status are included in the definition of discrimination on grounds of gender. Stateless persons and third country nationals are not passive actors, as their unequal treatment is justified by their legal status. In the law material, the active actor is Austria; passive actors are women and men discriminated against in employment. In prognosis, the responsible actor is Austria, target groups are women and men (introduce equality), women and men discriminated against on grounds of gender, ethnic affiliation, religion or belief, age, and sexual orientation, persons similar to employees (in weaker social positions), and third country nationals.

The governmental policy plan mentions women as passive actors, target groups are girls, working women, and women re-entering jobs. No active or responsible actors are mentioned.

In the parliamentary debate, typically, young women and girls are passive actors, and the target groups are women, young women and girls. Men and children are mentioned as passive actors by a right-wing party voice, families and children as a target group (men suffer from women's aggressiveness, children suffer from women considering them a burden in relation to their job, families with children must be put at centre of policies). Trade unions, social partners, and society are mentioned as responsible actors once. The right-wing voice mentions men as responsible (for emancipation).

The NGO text mentions as passive actors women employees who are not self employed (norm group men), women blue collar workers (norm group men blue collar workers), female civil servants (norm group male civil servants), women employed in full time positions (norm group men in full time position), women in low-paid industries (norm group men in low-paid industries), part-time workers. Target groups are women, adults, older women, women re-entering jobs, part-time employees, all mothers and fathers, women in employment, and fathers.

3. Location

In the sub-issue **tax-benefit policies**, the problem is most often located in the sphere of polity, sometimes in combination with economy or intimacy, but it is rarely solely seen as a matter of intimacy. The NGO text and Green Party voice in the debate locate the problem and solution solely in the spheres of polity and economy, and not in intimacy.

In **care-work**, the law locates the problem at the level of individuals, and locates the solution at the level of polity/intimacy/economy (suspending financial sanction for breach of law). In the parliamentary debate there is a friction in the location of the problem and the solution: the problem is located in individual behaviour (private households employ carers illegally), while the solution is located in polity/intimacy/economy (support affordable care at home, support caring relatives, support family as biggest care institution). One right-wing party voice locates the problem in structures (people cannot afford legal care because resources have not been increased), and the solution in individuals ('no-one with good morals would choose illegal care when legal care is available'). The NGO text locates the problem in both structural and individual spheres, and the solution in the sphere of polity.

In **reconciliation**, the legal texts locate the problem in polity and intimacy/economy/polity, and the solution in intimacy/economy. The governmental report locates the explicit solution – reconciliation of job and family in intimacy/economy, while the implicit solution – eliminate discrimination of women in employment – is located in polity/economy. In the parliamentary debate, the Green Party mentions the problem that women are primarily disadvantaged by the right to part-time work. The NGO text locates the problem in intimacy/economy and economy/polity, the solution in intimacy/economy (emphasis on structural conditions).

In **gender pay gap**, the law locates both the problem and solution in economy/polity. The law material locates the problem in economy/polity, the solution in economy, and polity. The governmental policy plan locates the problem and solution in economy/polity. In the parliamentary debate, the problem is usually located in economy/polity, but also in knowledge (women's wrong choice of jobs), and intimacy (women consider child a burden). The solution is also typically located in economy/polity, but also in economy, or intimacy (women should renounce well-paid job for child). The NGO text locates the problem most often in economy, and in economy/polity, and the solution in economy/polity.

4. Norms

In **tax-benefit policies**, in the parliamentary debate encouraging Austrians to have more children and stopping mass immigration are underlying norms that are

contrasted with equal treatment of children regardless of citizenship status. ('Children are welcome if they have a legal status'). The norm group of Austrian nationals and Austrian families is invoked frequently in the debate. Self-responsible, active citizens are also invoked as a norm group in the debate.

In **care-work**, providing the best affordable care according to the needs of the person needing care and the needs of the relatives are most frequent norms. Providing sanctions is seen as bad, suspending sanctions as good. Enabling 'ageing with dignity' and the best possible satisfaction of persons needing care and their relatives are the most important goals. The governmental policy plan mentions self-employed carers as a norm group that will preferably provide 24 hour care at home. The parliamentary debate mentions as norms: equal opportunities of Austrian, well-trained carers, support for family as the biggest caring institution, and better social security for female relatives who care. The NGO voice mentions a comprehensive regulation of 24 hour care, and information for those concerned as the important goal. Paying social security for persons performing care is articulated as desirable.

In **reconciliation**, in legal texts enabling reconciliation of job and family for parents of small children is seen as good. Higher costs for employers caused by part-time work are seen as bad, and creating more jobs as desirable. Gender equality is seen as desirable but at the same time as a means to economic goals. In the parliamentary debate, harming the labour market by regulating part-time work is seen as bad, not getting employers' consent is seen as detrimental to the interests of women, mothers and fathers, and taking away the freedom of choice of young families by the lawmaker is seen as bad. Careful weighing of interests of employers and employees is seen as very good. The right-wing party has a notable argumentative friction in seeing fathers' participation in childcare as 'crucially important' on the one hand, but on the other hand seeing the introduction of a daddy month as forced equality, threatening a mother's close relationship, as well as unaffordable. Forcing equality is seen as bad, enabling families to have children and freedom of choice as good. Criticizing representatives of economy is seen as bad. The Social Democratic Party voice sees exclusion of many people from the right to part-time work as bad, dependency on the employer as bad, more fathers participating in childcare and more equal distribution of work in relationships as good. The Green Party refers to Gender Mainstreaming and gender equality as norms.

The NGO text refers to gender equality, independence, full-time employment, general reduction of working time, and better distribution of work as positive norms. Dependence on partner or state, gender pay gap, and not being able to secure a living through part-time work are depicted as bad.

In **gender pay gap**, the legal texts refer to gender equality, equal treatment and equality/non-discrimination in employment. The governmental policy plan mentions equal opportunities, justice regarding income, and equality in employment in

diagnosis and gender equality in income in prognosis. In the parliamentary debate, norms evoked in diagnosis are gender equality in income, equal gender representation in employment sectors (Minister for Women), gender equality in income, full-time employment, right choice of job (Conservative Party), gender equality in labour market, equal representation in well-paid sectors (right-wing party), adequate compensation for women's care work, respect for family (right-wing party), gender equality in private sector and justice (Green Party). Norms evoked in prognosis are self-determination of women, social inclusion (Minister for Women), flexibility, part-time employment, reconciliation (Conservative Party), gender equality (right-wing party, Green Party), family with children (right-wing party). The NGO text refers to gender equality in income, full-time employment, and equality concerning career in diagnosis, and gender equality in prognosis. The NGO text also refers to male norm groups extensively.

5. Voice

In **tax-benefit policies**, one major difference between governmental and NGO voices is that the NGO text does not locate problem or solution in the sphere of intimacy, but solely in polity and economy, whereas the governmental texts also locate problem and solution in intimacy. The governmental policy plan explicitly mentions enhancing women's policy as an objective, while inequality axes other than gender are not referred to – whereas in the legal texts, citizenship status is referred to. The NGO text does not refer to gender equality as an underlying norm, but makes extensive reference to equality regardless of citizenship status.

In **care-work**, governmental texts do not refer to gender or any inequality axes other than class. Meeting the needs of persons in need of care and those of their relatives and of 'persons going back to work' (all de-gendered) in an affordable way are the highest objectives. The working conditions of people performing care work are not discussed and citizenship status is not mentioned as relevant (other than in implying it in 'illegal care arrangements'). The governmental policy plan calls for the inclusion of NGOs in order to recognize and support the care work performed by relatives and voluntary workers. The NGO text articulates paying social security for persons performing care, and comprehensive policy solutions regarding 24 hour care as desirable. Citizenship status and gender are not openly addressed, but implied.

In **reconciliation**, governmental legal texts call for gender equality as a goal (increased women's employment and increased fathers' participation in child-care), but it is seen as a means to economic goals in the end ('consequences for employment and Austria as a business location'). The governmental report to CEDAW is de-gendered, and there is no reference to gender equality or how gender relations are affected by the suggested actions. Other inequality axes are not referred to. The NGO text emphasizes structural conditions that enable or hinder

gender equality and independence from partner or state. Gender is central, family status implicit, other inequality axes not referred to.

In **gender pay gap**, the focus of governmental texts is on non-discrimination and equal treatment in employment on grounds of gender, ethnic affiliation, religion or belief, age and sexual orientation, and equal opportunities and justice regarding income in the policy plan. The NGO text refers to gender equality and full-time employment as underlying norms. Legal texts incorporate several inequality axes as separate grounds of discrimination with the notable absence of class and disability. Class is only mentioned in 'persons similar to employees' as being of a weaker social position and are thus also covered by the anti-discrimination regulations. Disability is covered by another law. The NGO text pays attention to gender and class as the only inequality axes. The legal texts also refer to nationality as an inequality axis, arguing that unequal treatment in employment on grounds of nationality is justified if based on objective reasons and not based on a racist approach.

We can conclude that gender, class and citizenship status/nationality are intersecting in tax benefit policy, while in care work, gender, age, and citizenship status/nationality are intersecting. For the gender pay gap, gender and marital/family status and gender and class are intersecting.

3.3 The range of meanings of gender equality in Intimate Citizenship

In the issue of Intimate Citizenship, definitions about the problem seem to be structured along two major issues: on the one hand, what is equal and what is unequal treatment regarding rights and duties related to intimacy, especially concerning the distribution of power, resources, rights, and work in relation to different inequality axes; on the other hand, the wellbeing of children or embryos (individual level) and reproduction in general (societal level).

In the sub-issue of **divorce, marriage, separation (joint custody)**, wellbeing of children is set in contrast with inequality in the distribution of power and resources related to gender. The notable exception is the NGO text, which connects wellbeing of children with issues of unequal distribution of rights and structural conditions with regard to gender from a feminist point of view.

In the sub-issue of **sexual orientation discrimination and partnering**, wellbeing of children is set in contrast with the equal distribution of rights and duties (to have a partnership) in relation to sexual orientation. Unequal distribution for homosexual persons is argued in the name of legal reasoning, justice, truth, wellbeing of children, guaranteeing existence of mankind, and morality. The latter reveals an interesting connection to gender: the argument that a same-sex partnership is recognised in civil

law only regarding the distribution of duties (expectation to financially maintain one's partner) is made by referring to a decision in the 1950's that it is 'against morals' if an ex-wife enters a new partnership while receiving maintenance from her ex-husband, as the ex-husband would be subject to ridicule if he continued paying maintenance. Thus, the reason for a partial recognition of the partnership of two women in civil law is that the ex-husband of one of the two women must be protected from ridicule, which is why the two women are expected to financially maintain each other.

In the sub-issue **reproduction**, the distribution of resources is debated in relation to gender (but not in relation to transgender), age, migrant status, class, and medical condition, while distribution of rights is debated in relation to marital status and sexual orientation. On the other hand, the wellbeing of the embryo and childlessness are major concerns, along with 'legal certainty' or 'legal clarity'. Exclusion in relation to sexual orientation is, for example, argued as non-discriminatory with reference to their legal lack of the capacity to marry – that is, with reference to another debate where the question of whether or not same-sex partners are discriminated against by not being allowed to marry and have partnerships is hotly debated. In relation to class, excluding people with private health care from funding insurance is seen as unjustified, because it would be hardship to exclude them. Regarding gender, excluding funding for causes of sterility in women that are of physical nature and can easily be proven would be unjustified, while excluding unknown causes and psychological causes of sterility in women is seen as justified since it would generate enormous costs and might lead to procedural difficulties in verifying if someone is eligible for funding. Excluding people whose sterility was caused by their intention is seen as justified, since they were older than 25 and able to make informed decisions after profound medical, legal and psychological counselling on the consequences. Excluding women older than 40 and men older than 50 is seen as justified without giving any argument. Funding for sterile men is not restricted (to particular causes as compared to women), without any reasoning. Funding for non-Austrian nationals is restricted to those with legal residency status without any reasoning.

1. Diagnosis and Prognosis

1.a Diagnosis

For the sub-issue **divorce, marriage, separation (joint custody)**, the implicit problem in the law on joint custody is that the wellbeing of child is not adequately considered, that parents do not reach agreement and that the other parent is not informed and heard when the other parent has sole custody.

The implicit problem in the CEDAW report is gender stereotypes in upbringing of children, with men as the ones concerned by the problem (passive actors).

In parliamentary debate, the Minister for Justice (BZÖ) states that joint custody is not a problem, but an 'un-objective' debate involving reference to power and resources is

a problem. The Conservative Party voice states that the problem is that many children are concerned by divorce and that leftist parties are against cooperative models for parenthood. The Green party voice states that the problem is a lack of structural conditions enabling more active fathers and that most housework and care work for children is performed by women. The Social Democratic voice states that the problem is that women will be affected by joint maintenance, as it is about power and money.

The NGO voice states that the problem is joint custody after violence, as women and children are confronted again with the perpetrator and cannot get away from the threat of violence.

Reference: For Conservative and right-wing party voices, reference is made to experts, an expert hearing in Parliament, Germany, and Austria's neighbouring countries as supporting joint custody. The Green party voice refers to feminist, academic and NGO experts as opposing joint custody and to Sweden as supporting the argument that structural conditions are necessary. The Social Democratic voice refers to experts and to a federal government as opposing joint custody.

For the **sub-issue sexual orientation discrimination and partnering**, the implicit problem of the decision of the Highest Court is that it is legally unclear whether same-sex partnerships are to be treated equally to heterosexual partnerships in cases of maintenance after divorce. The explicit problem stated is that entering a new partnership while receiving maintenance after divorce is against morals, as the one paying maintenance is subjected to ridicule.

The implicit problem in the governmental report (ICCPR) is discrimination of gay men in relation to heterosexual and lesbian couples. The explicit problem is determining a minimum age of consent for sexual relations for male homosexuals.

The problem of the Conservative Party voice is that legal recognition of same-sex partnerships by a civil covenant would be detrimental to already existing partnerships as they would have to register at the civil registrar office. The exclusion of two men and two women from marriage is not a problem, as they lack legal capacity to enter marriage. The problem mentioned by the right-wing party Association Future Austria (BZÖ) is that civil covenants for same-sex partners would only create rights without duties, would allow partnerships out of purely economic reasons (in social advantages and alien law), and that adopting the child of one's partner would endanger the wellbeing of the child as there are unclear rights and duties regarding the biological parent and regarding whether there are several parents. The problem mentioned by the right-wing Freedom Party (FPÖ) is that marriage is not comparable to homosexual partnerships, as homosexual partnerships lack capacity to reproduce and guarantee further existence of mankind in an appropriate way. To treat homosexual partnerships differently is not discriminatory, but demanded by justice.

The problem mentioned by the Social Democratic Party is that Austria is backwards and that the state ignores the affection that persons feel for each other. Discrimination of same-sex partnerships regarding care leave for terminally ill persons, inheritance and tenancy law is a problem. The problem mentioned by the Green Party is that same-sex partners are disadvantaged and have few rights. People living in partnership often believe that partnership is equal to marriage in inheritance, alien and tax law, which is not the case. Same-sex partners have the duties that come with partnership, but not the rights.

The problem mentioned by the NGO voice is the denial of rights for same-sex partners that are connected to marriage in inheritance law, tax law, alien law, social security and pension law, reproductive medicine law, adoption and custody.

Reference in the governmental report is made to the European Court of Human Rights 2003 decision stating that Austrian penal code provision 209 is a breach of Articles 8 and 14 of the European Convention on Human Rights to be taken into account for legal change.

Reference in the decision of the Highest Court is made to Article 8 and 14 of the European Convention on Human Rights as guiding principles, to the European Court of Human Rights as relevant for recognition of same-sex partnerships in tenancy law, the Constitutional Court as relevant for anti-discrimination of same-sex partners in social security law, and to Germany as supporting Austrian jurisdiction on same-sex partnerships.

Reference by the Social Democratic Party voice is made to Spain and Switzerland, to the European context and humanistic values to support the argument for same-sex partnerships. Spain and Switzerland are also referred to as showing that Austria is backwards. Reference by the right-wing Freedom Party is made to the 2003 paper by the Catholic Church, supporting the argument that different treatment of homosexual partnerships is not discriminatory but demanded by justice. Reference by the Green Party is made to South Africa and EU countries as supporting the argument to open up marriage to same-sex partners.

Reference by the NGO voice is made to Germany and France as models not to be followed, Denmark as example to follow, and to the European Court of Human Rights 2003 decision Karner vs. Austria.

For the sub-issue **reproduction**, the problem implicitly mentioned in the law is that criteria for funding of in-vitro-fertilisation must be changed. The problem mentioned in the explanatory material of the law is the lack of clarity in terms of who is a couple, the exclusion of some physical causes for women's sterility, and the exclusion of persons who have private health insurance. Extending funding to unknown or

psychological causes for sterility in women is not a problem as it would lead to difficulties in verifying eligibility.

The problem mentioned by the governmental report is lack of clarity in definition of 'couple', excluding funding for certain causes of sterility in women, and excluding funding for persons with private health insurance.

The problem mentioned by the Minister for Health and Women (Conservative Party) is people's and women's suffering due to not being able to have a child and unequal access to funding restricted to a financial elite. The problem mentioned by the right-wing Freedom Party is childlessness and high risks for the embryo. The problem mentioned by the Green Party is that financing for in vitro fertilization is not secured in the long run, and exclusion from funding for certain causes of sterility, for non-heterosexual couples, for women older than 40 and for men infected with HIV, and the exploitation of women by profit-oriented institutes implanting several eggs leading to multiple pregnancies with high risks for women and embryo.

The problem mentioned by the NGO voice is discrimination of single women, lesbian women and lesbian partnerships in reproductive medicine, which is un-objective, unscientific and a breach of equal treatment principles.

Reference in the explanatory material is made to EU law as not being relevant.

Reference is made by the Green Party to the UK as a good example for an in-vitro-fertilisation-law.

Reference is made by the NGO voice to numerous scientific studies as supporting the argument that the form of a family is not influential for the child's wellbeing.

1.b Prognosis

For the sub-issue **divorce, marriage, separation (joint custody)**, the law's objective is to secure the wellbeing of the child. Parents should agree on matters relating to the child and take the child's will into account. In case of sole custody, the parent who does not have sole custody must be informed about decisions and has the right to have his or her opinion taken into account if it is in the interests of the child's wellbeing.

The CEDAW report's explicit objective is to develop new perceptions of a father's roles and to replace traditional stereotypes for men and boys. The implicit objective would be to eliminate discrimination of women in upbringing of children.

The Minister for Justice's objective is to enable joint custody after divorce by creating the law. Parents should continue joint custody after divorce. The Conservative

Party's voice objective is to secure the wellbeing of the child to reduce the trauma of separation for the child and to mitigate divorce conflicts. The policy action suggested is to introduce joint custody and judges should implement the child's right to both parents. The Green Party voice's objective is equal sharing of care and housework between women and men. The policy action suggested is creating structural conditions to enable fathers to be more active as fathers and in housework. The law on joint custody should be postponed to await evaluation from other countries. The Social Democratic voice's objective is refusal of obligatory joint custody after divorce and clarity for children about who takes decisions about their daily lives. The policy action suggested is to change the law and withdraw joint custody once the Social Democratic Party is in government.

The NGO voice states that the objective is to protect women and children against violence. Women are called upon to consistently point to the violence that occurred during divorce proceedings and to make a petition at court to take away custody from the violent parent.

For the **sub-issue sexual orientation discrimination and partnering**, the objective of the Highest Court decision is providing legal certainty, avoiding breach of good morals, avoiding inconsistency, and avoiding the privileging of same-sex partnerships. The policy action mentioned is equal treatment of same-sex partnerships in cases of maintenance after divorce as compared to heterosexual partnerships.

The objective of the governmental report is neutrality of the law regarding the sexes. Another objective is protection of juveniles of any sexual orientation and to enable their autonomous decision on sexual conduct and to enable good development of juveniles. The policy action mentioned is establishing a uniform age of consent of 14 years, to punish sexual exploitation by an older partner if the other is below 16, and to punish paid sexual relations with a person below 18 regardless of sexual orientation.

The objective of the Conservative Party voice is to stop discrimination for heterosexual and homosexual partnerships, and to reject marriage for same-sex partners. The policy action proposed is to create the same legal consequences for heterosexual and homosexual partnerships.

The objective mentioned by the right-wing party Association Future Austria is to secure the wellbeing of children. The policy action proposed is a reform of family law, marriage law and divorce law. The right-wing Freedom Party mentions the rejection of legal recognition of same-sex partnerships and privileging marriage between a man and a woman directed towards children as an objective to be achieved in the name of justice, eternal truth and legitimate interest of the state. The policy action mentioned is support for privileging marriage by the Freedom Party. The implicit

objective mentioned by the Social Democratic Party is an open society valuing liberalism and humanism. Policy actions proposed are that the state should deal with persons feeling affection for each other without prejudice by legal recognition of same-sex partnerships, which are not a burden to anyone. The objective mentioned by the Green Party is equality between lesbians and gays on the one hand and heterosexual partners on the other hand. The policy action mentioned is the creation of a civil covenant for homosexual and heterosexual partnerships. The Social Democratic Party should make the covenant possible.

The objective mentioned by the NGO voice is equality and equal rights for same-sex partnerships. The policy action mentioned is creating a registered partnership equal to marriage for same-sex couples following the Danish model.

For the sub-issue **reproduction**, the objective of the law is to set conditions for the funding of in-vitro fertilisation. The policy action mentioned is to define couple as two persons living in marriage or life-partnership, to make funding dependent on sterility in men or three physical causes of sterility in women, to refuse funding for men older than 50 and women older than 40, for women and men who caused sterility by intention and for Non-Austrian nationals unless they have a legal entitlement to residence in Austria.

The objective of the explanatory material is to fund in-vitro-fertilisation in certain cases. The policy action mentioned is to restrict the definition of couple to two persons of the opposite sex, to include persons with private health insurance, to include funding for two physical causes for sterility in women, and to refuse funding for all unknown or psychological causes of sterility in women.

The objective of the governmental report is to improve implementation and clarity of the law. The policy action mentioned is clarification of definition of couple, inclusion of persons with private health insurance and inclusion of two more physical causes for sterility in women as criteria for funding. Funding should not be given in cases where sterility was caused by intention.

The implicit objective of the Minister for Health and Women (Conservative Party) is equal access to funding to reduce people's suffering who want a child of their own. Policy action mentioned is to extend funding to more people. The objective mentioned by the right-wing Freedom Party is to enable reproduction and avoid risks for the embryo. The policy action mentioned is to enable reproduction regardless of financial resources and to inform about possible risks. The objective mentioned by the Green Party is equal access to artificial reproduction. Policy actions mentioned are inclusion of non-heterosexual couples, of all causes of sterility, of HIV infected men and women older than 40.

The objective mentioned by the NGO text is equal access to reproductive medicine techniques regardless of sexual orientation or marital status. Policy actions mentioned are legalizing insemination and sperm donation by private actors for all women, giving a legal status to and automatic right to adoption for the non-biological mother of the child, and give the right to make a contract between a lesbian couple and a sperm donor.

2. Roles in Diagnosis and in Prognosis

2.a Roles in Diagnosis

For the sub-issue **divorce, marriage, separation (joint custody)**, active actors mentioned in the law are both parents (not reaching agreement). Passive actors mentioned in the law are children and the parent who does not have custody. There is no explicit gendering, but it is implicit as the legal definition of parents is restricted to a man and a woman. No intersection other than family status (having a child).

No active actors are mentioned in the report. Implicit passive actors are men (affected by gender stereotypes in upbringing of children) and women (affected by discrimination).

Active actors mentioned in the debate by the Minister of Justice (right wing Party) are MPs and the lawmaker. Passive actors are divorced parents. Active actors mentioned by the Conservative Party are divorced parents and leftist parties, passive actors are children. The active actor mentioned by the Green Party is the lawmaker. Passive actors are women and children. Active actors mentioned by the Social Democrats are the government (and offended divorced fathers); passive actors are mothers and ex-wives.

Passive actors in the NGO voice are women and children after divorce. Active actor is the lawmaker.

For the **sub-issue sexual orientation discrimination and partnering**, the active actors in the decision by the Highest Court are ex-spouses entering new relationships; the passive actor is the ex-spouse paying maintenance.

There is no active actor in the report, passive actors are homosexual men.

No active actors are mentioned in the debate by right-wing Association Future Austria; passive actors are ex-partner and partner giving up job to care for child. Active actors mentioned by the Conservative Party are existing same-sex partnerships and existing heterosexual partnerships. Passive actors are male

couples and female couples (exclusion from marriage), not seen as problem. Active actor mentioned by the Social Democratic Party is the state, passive actors are persons feeling affection for each other and same-sex partners. No active actors are mentioned by the right-wing Freedom Party, discrimination of passive actors in homosexual partnerships is not seen as problem. No active actors are mentioned by the Green Party, passive actors are same-sex partners, lesbians and gays, and people in heterosexual partnerships.

Active actor mentioned by the NGO voice is the lawmaker (implicit), passive actors are gay and lesbian couples, same-sex partners, homosexual and heterosexual partners, single women and lesbian women.

For the sub-issue **reproduction**, in the law diagnosis no active actor is mentioned. In the explanatory material, active actors are not mentioned. Passive actors in diagnosis are sterile women, people with private health insurance, couples whose sterility was caused by intention, and women.

In the report, the active actor is the lawmaker. Passive actors are sterile men, sterile women, couples whose sterility was intended, and persons with private health insurance.

In the debate, no active actor is mentioned by the Conservative Party. Passive actors are people and women. The right-wing Freedom Party mentions those concerned by childlessness and embryos as passive actors, no active actor is mentioned. The Green Party mentions the lawmaker and profit-oriented in-vitro fertilization institutes as active actors, passive actors are persons with certain causes of sterility, women older than 40, HIV infected men, and non-heterosexual couples.

In the NGO voice, no active actor is mentioned. Passive actors are single women, lesbian women, and lesbian couples (child in lesbian family is a passive actor not having a problem).

2.b Roles in Prognosis

For the sub-issue **divorce, marriage, separation (joint custody)**, responsible actors in the law are parents and the parent who has custody. Explicit intersection of gender with family status in the sense of having a child (father can have sole custody) and with family status and marital status (mother has sole custody if child born out of wedlock). Target groups mentioned are children. No gendering or intersection in target groups.

The target group for policy action in the report are men and boys.

Responsible actors mentioned in the debate by the Minister of Justice (right wing Party) are the state actor lawmaker and divorced parents. Target groups are divorced parents. Responsible actors for the Conservative Party are the lawmaker and judges, target groups are children after divorce. For the Green Party, responsible actors are fathers, the lawmaker and parliament, target groups are men and fathers. Responsible actor for the Social Democratic Party is the Social Democratic Party.

Responsible actors for the NGO voice are women victims of violence. Target groups are women and children victims of violence.

For the **sub-issue sexual orientation discrimination and partnering**, there are no responsible actors or target groups in the decision by the Highest Court.

Responsible actor in the report is the lawmaker, target groups are the sexes and juveniles or both sexes and any sexual orientation.

Target group in the debate are children (mentioned by right-wing Association Future Austria), no responsible actors mentioned. No responsible actors or target groups are mentioned by the Conservative Party. Responsible actor mentioned by the Social Democratic Party is the state, target groups are same-sex partners and persons feeling affection for each other. Responsible actors mentioned by right-wing Freedom Party are Catholic politicians, the liberal state and the Freedom Party. Target groups are homosexual partnerships, private relationships, and male-female couples with intention to conceive and raise children. Responsible actor for the Green Party is the Social Democratic Party, target groups are lesbians and gays.

Responsible actor for the NGO voice is the lawmaker (implicitly); target groups are gay and lesbian couples, same-sex partnerships and homosexual couples.

For the sub-issue **reproduction**, in the law, no responsible actor is mentioned. Target groups are two persons living in marriage and two persons living in life-partnership similar to marriage (heterosexual according to explanatory material), sterile men, sterile women, sterile women older than 40, sterile men older than 40, and non-Austrian nationals. In the explanatory material, responsible actors are not mentioned. Target groups are heterosexual couples who cannot conceive a child, heterosexual married couples, heterosexual life-partners, persons with private health insurance, and sterile women.

In the debate, no responsible actor is mentioned by the Conservative Party. Target groups are women wanting a child of their own and sterile men. The right-wing Freedom party mentions no responsible actor. Target groups are those concerned by childlessness. The Green Party mentions as target groups: non-heterosexual couples, persons with different causes of sterility, women until 42, and HIV infected men.

In the NGO voice, no responsible actor is mentioned. Target groups are all women, non-biological mothers, lesbian couples, and sperm donors.

3. Location

For the sub-issue **divorce, marriage, separation (joint custody)**, location in the law in diagnosis and prognosis: intimacy.

Location in the report in diagnosis and prognosis: polity together with intimacy.

Location in the parliamentary debate for Minister of Justice in diagnosis and prognosis is intimacy together with polity. For the Conservative Party the location is intimacy in diagnosis (also intimacy together with polity) and prognosis. For the Green party, location is intimacy and intimacy together with polity in diagnosis, and intimacy in prognosis. For the Social Democratic Party, location is economy together with polity and intimacy, and economy together with polity in diagnosis; in prognosis it is intimacy together with polity.

Location in the NGO text is polity in diagnosis and prognosis.

For the **sub-issue sexual orientation discrimination and partnering**, location in diagnosis in the Highest Court decision is intimacy; and polity and economy, and polity and culture in prognosis.

Location in diagnosis and prognosis is polity together with intimacy in the report.

Location in the debate for the right-wing party BZÖ in diagnosis is polity together with intimacy (also in prognosis), and polity together with intimacy and economy. Location in the debate for the Conservative Party, right-wing Freedom Party, and the Green Party is polity and intimacy in both diagnosis and prognosis; for the Social Democrats, it is polity together with intimacy and economy in diagnosis and polity in prognosis. For the NGO voice, it is polity together with intimacy and polity together with intimacy and economy in diagnosis and polity together with intimacy in prognosis.

For the sub-issue **reproduction**, location in diagnosis in the law is implicitly polity/intimacy/economy. Location in prognosis is polity/intimacy/economy. In the explanatory material, location in diagnosis is polity/economy/intimacy (also prognosis), polity/intimacy and economy/polity.

Location in the report is polity/intimacy/economy and polity/economy in diagnosis and polity in prognosis.

Location in the debate in diagnosis for the Conservative party is intimacy and intimacy/economy, in prognosis it's polity/economy/intimacy; for the right-wing Freedom Party, it is intimacy in diagnosis and intimacy/polity in prognosis; and for the Green Party, it is economy/intimacy/polity, intimacy/polity, economy/polity in diagnosis and intimacy/polity/economy in prognosis (implicitly).

For the NGO voice, location in diagnosis is intimacy/polity (intimacy alone is not a problem) and polity in prognosis (implicitly).

4. Underlying norms

For the sub-issue **divorce, marriage, separation (joint custody)**, underlying norms in the law in diagnosis and prognosis are wellbeing of the child and agreement of parents.

Underlying norms in the report in diagnosis is gender equality and in prognosis is equality and new father roles.

Underlying norms in the debate for the Minister of Justice in diagnosis are cooperation of parents (also for prognosis), objectivity, and adequate perception of reality. Underlying norms for the Conservative Party in diagnosis are wellbeing of child, absence of conflict, agreement (norm group cooperative parents); in prognosis they are wellbeing of the child, modernity, and cooperative parenthood. For the Green Party, norms are adequate perception of reality, gender equality and autonomy in diagnosis, and gender equality in prognosis (women as norm group in prognosis). For the Social Democratic Party, norms are autonomy of women and financial autonomy of women in diagnosis and autonomy in prognosis.

Underlying norm of the NGO voice is freedom from violence and father's rights in diagnosis, and freedom from violence and bodily and mental integrity in prognosis.

Norm groups are hardly invoked. Women as norm group once, cooperative parents once.

For the **sub-issue sexual orientation discrimination and partnering**, underlying norms in decision by Highest Court are legal clarity, continuity, good morals and equal treatment in diagnosis and legal clarity, consistency and good morals in prognosis. Norm group is heterosexual partnership.

Underlying norms in the governmental report are protection of juveniles in diagnosis and prognosis, and neutrality of the law, equality, and autonomy of juveniles in prognosis. Norm groups are heterosexual couples and lesbian couples.

Underlying norms in the debate for the right-wing party BZÖ are duties, abuse of rights, wellbeing of child and legal clarity in diagnosis and wellbeing of child in prognosis. For the Conservative Party, norms are protection of partnerships, equality, and access to marriage in diagnosis and equality and access to marriage in prognosis. For the Social Democrats, they are equality and conformity with EU countries and recognition in diagnosis and liberalism and humanism in prognosis. For the right-wing Freedom Party, the norms are equality and correct use of terms in diagnosis, and justice, eternal truth, state interest and special rights in prognosis. For the Green Party, they are equality, recognition, and right to family life in diagnosis, and equality in prognosis. Norm group is heterosexual partners.

Underlying norms for the NGO text are equality and reproduction in diagnosis (norm groups: heterosexual couples, married spouses), and equality in prognosis (norm group married couples and heterosexual partnerships).

For **reproduction**, underlying norms in the law are reproduction and access to resources in prognosis. In the explanatory material, they are legal clarity and unambiguity, equal access to funding, equal access to medical procedures, unjustified access to resources, and informed decisions in diagnosis (norm groups: people with public health insurance, couples whose sterility was caused by fate). In prognosis, norms are reproduction and access to funding.

Underlying norms in the report in diagnosis are clarity, access to resources, heteronormativity, equal treatment, reproduction, autonomy, and public social security (norm group person with public health insurance). In prognosis, the norm is legal clarity.

Underlying norms in the debate for the Conservative Party in government are reproduction, wellbeing and equal access to funding in diagnosis and equal access to funding and equality in prognosis. For the right-wing Freedom Party in government, the norms are reproduction and health in diagnosis and prognosis. For the Green Party, they are equal access to funding and equal access to reproduction techniques, and adequate resources in diagnosis (norm groups: heterosexual married couples, heterosexual life-partners), and in prognosis, equal access to artificial reproduction.

Underlying norms in the NGO voice are wellbeing of child and scientific-ness (not a problem), and equality/access to reproductive medicine/reproduction in diagnosis (norm group heterosexual couples) and equality/equal access to reproductive medicine in prognosis.

5. Voice

Underlying norms seem to differ for NGO and governmental texts: while wellbeing of children and protection of juveniles are central underlying norms for governmental

texts in the sub-issues joint custody and sexual orientation discrimination, the NGO texts articulate freedom from violence, bodily and mental integrity (of women and children) (sub-issue joint custody), equality and (access to) reproduction (regardless of sexual orientation) for the sub-issue sexual orientation discrimination. Wellbeing of children is explicitly mentioned as not being a problem by the NGO text relating to sexual orientation discrimination, while it is seen as a problem relating to violence by ex-spouses in the case of joint custody.

For the sub-issue reproduction, NGO texts have equality and access to reproductive medicine (regardless of sexual orientation and marital status of women) as underlying norms, while governmental texts have reproduction, access to resources, clarity, public social security, and heteronormativity as underlying norms.

Gender equality as underlying norm in a governmental text is only found in the governmental report to CEDAW (sub-issue joint custody) where it is coupled with new father roles and wellbeing of child. Equality is referred to in the governmental texts on same-sex partnership (together with neutrality of the law and autonomy of juveniles), where ending discrimination against homosexual men is supported by the highest goals 'neutrality between the sexes', and 'protection of juveniles' - and not, as one might expect, equality regardless of sexual orientation – and thus is closer to 'gender equality'.

Governmental texts on joint custody explicitly refer to gender, family and marital status in stating that the mothers have sole custody if the child is born out of wedlock, and that the father can have sole custody if parents do not live together and agree which parent the child should primarily live with. The child can only live with the father if the father has sole custody. Family and marital status are relevant for the statement that unmarried parents can agree on shared custody if they live together, and that custody is shared by both parents if they get divorced.

In the governmental report for sexual orientation discrimination, gender is referred to in relation to age and sexual orientation: the highest goal is protection of juveniles from early sexual contacts and sexual exploitation. This is why a uniform age of consent (14) for sexual relations is introduced, regardless of sexual orientation. The problem is located in different treatment of age intersected with gender and sexual orientation (age limit 18 for homosexual men, 14 for lesbian and heterosexual couples) in criminalizing sexual contacts.

Governmental texts regarding the sub-issue reproduction are particularly interesting since they regulate access to funding for artificial reproduction and specify the conditions under which different treatment (i.e. exclusion from funding) is considered as not discriminatory regarding different axes of inequality. Excluding homosexual couples is seen as justified with the argument that homosexual partners cannot

marry (legally) and cannot (legally) have a partnership similar to marriage.⁷ Excluding people with private health insurance is seen as unjustified, because it would be hardship to exclude them. Excluding causes of sterility in women that are of physical nature and can easily be proven would be unjustified, while excluding unknown causes and psychological causes of sterility in women is seen as justified since it would generate enormous costs and might lead to procedural difficulties in verifying if someone is eligible for funding. Excluding people whose sterility was caused by their intention is seen as justified, since they were older than 25 and able to make informed decisions after profound medical, legal and psychological counselling on the consequences. Excluding women older than 40 and men older than 50 is seen as justified without giving any argument. Funding for sterile men is not restricted (to particular causes as compared to women) without any reasoning. Funding for non-Austrian nationals is restricted to those with legal residency status, without providing any reasoning.

Regarding intersectionality, class (ability to have private health insurance) is seen as a reason to include persons for funding. Gender is not seen as a reason to restrict funding for men (all causes of sterility funded) but is in the case of women (three causes that are physical and easily proven). Age is seen as reason to restrict funding for both men and women, but for men the threshold is 50 while it is 40 for women. Age is also decisive in determining restriction for persons who caused their sterility intentionally, as both men and women must be 25 to take this informed decision.

Regarding target groups, NGO texts in the debate on joint custody mention women as a target group, while governmental texts refer to children as a target group (women as target group only implicitly in the objective ending discrimination against women). In the debate on sexual orientation discrimination, NGO texts refer to target group of gay couples, lesbian couples, and same-sex partnerships, while governmental texts refer to the sexes and juveniles as target groups. In the debate on reproduction, NGO texts refer to women, non-biological mothers, lesbian couples and sperm donors as the target groups, and governmental texts mention heterosexual married couples and heterosexual life-partners.

NGO voices thus seem to articulate intersected target groups much more clearly than governmental voices. NGO voices also refer to heterosexual couples as a norm group, in pointed contrast to governmental voices. Regarding the definition of the problem, governmental texts (and texts by courts in the absence of a law) frequently mention problems derived from legal reasoning as the main problem ('lack of legal

⁷ This statement is particularly interesting, since at the time of the drafting of this governmental text (explanatory material to the 2004 law on in-vitro-fertilisation), the partial recognition of same-sex partnerships as being equal to heterosexual partnerships for some parts of the civil law - e.g. for tenancy law after the 2003 decision of the European Court on Human Rights 'Karner vs. Austria' was already valid.

clarity'), while NGO voices refer to discrimination, denial of rights (for women and lesbian couples) or too many rights (for fathers) as a frequent problem.

We can conclude that gender and sexuality, age and citizenship status are intersected.

3.4 The range of meanings of gender equality in Gender-based Violence

In the issue of Gender-based Violence, the definition of the problem and solution is structured in a diverse way. The common characteristics are that gender-based violence is generally not seen as a matter involving EU or international law, the notable exception being the sub-issue of trafficking, where European and international standards are explicitly seen as influential. Throughout the sub-issues, gender-based violence is rarely addressed as an issue of gender equality. Addressing the intersection of gender with other inequality axes varies greatly between sub-issues: gender/marital status are present in domestic violence and sexual assault (perpetrator blames wife, women reconcile with their partner, and most stalkers are ex-partners); gender/class (protection must be affordable for victims) and gender/class/educational status are present in sexual assault (protect women from stalking regardless of resources and education), but only in the parliamentary debate.

In the sub-issue of **domestic violence**, the problem is generally located in the behaviour of individuals. Mostly, the perpetrators behaviour is problematized, but also victim's behaviour is seen as a problem in that the perpetrator cannot be prosecuted because women withdraw their consent to prosecution. The solution to the problem is seen in prosecuting the crime of dangerous threat and in protecting the victims (or the entire population from barbaric crimes such as genital mutilation, forced marriage and dangerous threat). The NGO text explicitly articulated prosecution as a means to achieve prevention of violence and protection of victims, whereas right-wing party voices see punishment of crime as a goal in itself. The governmental text mentions the right to self-determination and respect for human dignity as underlying norms, but gender equality is not explicitly mentioned.

In the sub-issue of **sexual assault (stalking)**, the solution to the problem is generally located in protection of victims, but there is considerable variation about the question what the problem is and who a victim is. In the law, the problem is located in unacceptable interference in a person's life, whereas in the governmental report to CEDAW, the problem is located as violence in the family (especially against women and children). Right-wing parties locate the problem and solution in protection of victims against pressurizing and protection of women from terrorizing. Regarding the question of who is a victim, it is generally articulated that stalking concerns primarily women, but also that men are concerned by stalking as well as women (Minister of

Justice). The Green Party articulates gender equality in relation to economic concerns in the argument that effective protection of victims, primarily women, must not be made dependent on a low cost argument.

In the sub-issue of **trafficking**, the problem and solution are located in the most diverse way. Trafficking is seen as a problem because of exploitation of labour power, sexual exploitation, and exploitation by removal of body parts in the law, whereas in the governmental report, it is seen as a result of 'harmful traditional practices' affecting women and girls in Austria. In the parliamentary debate, it is seen as a problem because of international crime, because of alien law regulations that are detrimental to victims of trafficking, and because prostitutes are exploited. The Green Party and NGO text locate the problem in victims of trafficking facing restrictive alien, labour, and social law regulations and bad treatment by authorities. The solution is accordingly split into punishment of the (international) crime of trafficking, stopping traffickers from trafficking victims into Western Europe, protection of victims (especially minors), security for the population, and protection of victims of trafficking by less restrictive alien law and by providing labour market access and basic social rights such as health insurance.

Gender-based violence is very rarely articulated as being a matter of gender equality; on the occasions that it is, it is mostly in the governmental reports to CEDAW, and sometimes highlighted in NGO texts and Green Party voices.

Intersectionality is addressed in different ways in the three sub-issues. In the sub-issue of domestic violence, it is generally absent, with the exception of the Conservative Party voice who implies that the problem of dangerous threats inside the family is located- together with genital mutilation and forced marriage ('barbaric crimes')- at the intersection of gender, ethnicity, migrant status and/or religion. In the sub-issue of sexual assault (stalking), the intersection of gender, class, family status and educational status are addressed by NGO and Green Party voices (class also by Social Democratic voices). In the sub-issue of trafficking, the intersection of gender, migrant status, class, and age are addressed by NGO and Green Party voices by naming young women, and women fearing deportation due to lack of finances and illegal status.

1. Diagnosis and Prognosis

1.a Diagnosis

In the sub-issue **domestic violence**, the implicit problem in the law is that dangerous threats occurring against close relatives cannot be prosecuted unless the threatened person gives consent. In the explanatory material, the problem is moreover that victims withdraw consent for prosecution and that perpetrators blame wife or female partner for prosecution. Conformity with EU regulations is seen as not being a problem.

The implicit problem in the CEDAW report is discrimination against women and domestic violence.

In parliamentary debate, the Conservative Party voice implicitly states that the problem is coercion into marriage, dangerous threats inside the family and genital mutilation. The voice of the right-wing Freedom Party states that the problem is that men are never punished for dangerous threats against women as women reconcile with their partner and withdraw their consent for prosecution. The Social Democratic voice states that the problem is that dangerous threats among close relatives can only be prosecuted if the victim consents. The NGO voice states that the problem is that the lawmaker makes prosecution dependent on an additional step by the victim, that exiting from the spiral of violence is life-threatening for the victim, that dangerous threats are an essential indicator for an increased risk of violence, and that perpetrators pressurize their victims to withdraw the consent.

Reference: The explanatory material refers to the 2004 Report on the Crime Rate by the Ministry of the Interior, and to the Penal Code Amendment 2004 (as punishing rape and sexual coercion completely equal regardless of whether it occurs inside or outside a relationship). The governmental report refers to CEDAW Article 5 (elimination of gender stereotypes) and lists a range of past policy actions.

There is no reference in the parliamentary debate.

The NGO voice refers to the 1997 Law on Protection Against Domestic Violence, to the 2004 statistics from the Ministry of the Interior on homicide and to an expert on psychiatry to support the argument that threats are serious.

In the sub-issue **sexual assault (stalking)**, the problem mentioned in the law is persistent pursuit of a person that may result in unacceptable interference with that person's life. The problem mentioned in the explanatory material is that unacceptable interference in a person's life is not criminalized. Conformity with EU regulations is not seen as problem, as suggested regulations do not fall under implementation of EU regulations.

The problem in the governmental report is violence in the family, especially against women and children, and that stalkers are often ex-partners.

The problem for the Minister for Health and Women (Conservative Party voice) is that stalking has been known for a long time and no action has been taken. The problem mentioned by the Minister for Justice (right-wing party Association Future Austria) is that stalking affects men as well as women, and that the final draft is not sufficiently equal to the Law on Protection Against Family Violence. It is not seen as problematic that only rich victims will be protected, as legal and psychological support will be

offered to all victims of stalking. The problem mentioned by the voice of the right-wing Freedom Party is that women are terrorized, and that stalking has been ignored by previous social-democratic ministers of Justice and the Interior. Protection for victims is not seen as a problem since such protection can be obtained at courts that work quickly and effectively. The problem mentioned by the Social Democratic Party voice is that effective protection for the victims is lacking and that the victim's position is weakened, as stalking via telecommunication means is only prosecuted on the victim's demand. The problem mentioned by the Green Party voice is there is no effective protection for victims of stalking who are primarily women, that many victims are excluded from protection due to financial resources and knowledge, that effective protection of victims is made dependent on a low cost argument, and that the government plays down the gravity of stalking.

The problem mentioned by the NGO voice is that criminalization depends on the intention of the perpetrator rather than on actual repetition of acts, that perpetrators 'of unsound mind' pose a higher risk to victims as no injunction orders can be obtained against them, and they cannot be detained or imprisoned, that close relatives of the victim such as children are at an increased risk if the victim obtained an injunction order as they are not protected, that procedures to obtain protection at court are lengthy and bear a high financial risk for women victims of stalking with low income, that victims of stalking have to face the perpetrator again in order to obtain compensation, that judges dealing with stalking are not specialized in family law, that victims of stalking are not entitled to psychological and legal support during court procedures and that victims have to testify in the presence of the perpetrator unless the stalker is a close relative.

Reference in the governmental report is made to the European Court of Human Rights 2003 decision stating that Austrian penal code provision 209 is a breach of Articles 8 and 14 of the European Convention on Human Rights, to be taken into account in legal change.

Reference in the explanatory material to the law is made to Article 8 and 12 of the European Convention on Human Rights as guiding principles, to a petition agreed by all parties in government regarding measures against stalking, and to Great Britain, the Netherlands, Belgium, Sweden and California as having legislation against stalking. Reference in the governmental report is made to the 1997 Law on Protection Against Family Violence. Reference in the parliamentary debate is made by the Minister for Women and Health (Conservative party) to Social Democratic Ministers for Women and for the Interior as not bringing about legislation on stalking. Reference by the Minister for Justice (right-wing party Association Future Austria) is made to Great Britain, Sweden, the Netherlands and Belgium as having legislation on stalking. Reference by the Social Democratic Party voice is made to the Ministry of Finance and the Ministry of the Interior as opposing legislation on stalking for cost reasons. Reference by the Green Party voice is made to the Minister of Justice as

having brought about legislation against stalking, and the Ministry of Finance and the Ministry of the Interior as opposing legislation on stalking for cost reasons.

In the sub-issue **trafficking**, the problem implicitly mentioned in the law is trafficking in human beings. The problems mentioned in the explanatory material of the law are: that EU and UN regulations regarding trafficking have not been implemented; sexual exploitation (especially of minors); exploitation by removal of body parts; and labour exploitation.

The problem implicit in the governmental report is harmful traditional practices affecting women and girls in Austria.

In the parliamentary debate, the Minister of Justice (right-wing party Association Future Austria) mentions that it is not problematic that victims of trafficking have to be available for criminal testimony if they want to have a 30 day stabilization period. The problem mentioned by the Conservative Party voice is trafficking as the third biggest source for international crime and that all European countries are affected by it. The problem mentioned by the Social Democratic Party voice is that victims of trafficking cannot be stabilized if they have to be available for criminal testimony during the stabilization phase, and that prostitutes' exigency is exploited. The problems mentioned by the Green Party voice are that victims of trafficking are denied labour market access if they obtained a residency permit on humanitarian grounds, that women and young people are trafficked into prostitution, into households and into marriages, and that victims of trafficking are deported.

The problems mentioned by the NGO voice are a lack of adequate resources to support victims of trafficking, an insufficient stabilization period for victims, that victims of trafficking are not recognized and are deported, that residency on humanitarian grounds is not a legal claim and is dependent on the victim's willingness to testify and takes a long time, that authorities fail to tell women that testifying is not anonymous, that work permits for women affected by trafficking are issued under very restricted conditions, and that migrant women affected by trafficking have no health insurance during the time they wait for their visas, and have very little state funded basic subsistence per month, not enough to cover the basic costs of living.

Reference in the explanatory material is made to EU and UN regulations on trafficking. Reference in the governmental report is made to EU regulations on residency for third-country national victims of trafficking. Reference in the parliamentary debate is made to the European Council Convention Against Trafficking by all party voices. Reference is made by the NGO voice to CEDAW Article 6 (trafficking in women).

1.b Prognosis

In the sub-issue **domestic violence**, the law's implicit objective is to prosecute dangerous threats regardless of the relation to the person threatened. The policy action proposed is to prosecute dangerous threats against any person without needing the victim's consent. The objective of the explanatory material is improved protection for victims and stronger respect for right to self-determination and for human dignity. The policy action proposed is to remove consent as a condition for prosecution of close relatives.

The governmental report's implicit objective is to eliminate discrimination of women by eliminating violence against women.

The objective mentioned by the Conservative Party voice is to protect victims and persons affected living in Austria and the people/population, and to obtain legal certainty. Policy actions proposed are to express clearly that the dignity of a person is defended with the help of penal law in a debate about cultures, and to prosecute the barbaric crime of genital mutilation, dangerous threats inside the family, and coercion into marriage. The right-wing Freedom Party's voice objective is to punish violence and pressurizing of another person. The policy action suggested is to remove the requirement of consent for prosecution of dangerous threats. The Social Democratic Party voice's objective is to reject violence and to protect victims. The policy action suggested is to prosecute dangerous threats even if committed by close relatives.

The NGO voice states that the objective is protection from and prevention of violence for the general population and particular persons, and to treat violence among relatives equally to violence amongst strangers. The policy action proposed is to remove consent as criteria for prosecution and to take dangerous threats seriously.

In the sub-issue **sexual assault (stalking)**, the implicit objective of the law is protection against persistent pursuit. The policy action proposed is to punish persistent pursuit of another person with up to one year imprisonment. The objective in the explanatory material is protection of victims from psychological violence. The policy actions proposed are criminalization of persistent pursuit and to offer professional support for victims. The broader concept of stalking as used in Germany should not be adopted in order to improve legal certainty.

The objective of the governmental report is to protect victims and to combat domestic violence. The policy actions proposed are to empower women to make use of their rights, and to combat stalking by penal law and civil law.

The objective of the Minister for Health and Women (Conservative Party voice) is to protect against violence and psychological-terror. The policy action proposed is the new anti-stalking law. The objective mentioned by the Minister of Justice (right-wing

party Association Future Austria voice) is to protect victims of stalking from psychological violence. The policy action proposed is to make stalking a public offence requiring public prosecution, to entitle victims to psychological and legal support during court proceedings, to punish psychological-terror with imprisonment, to enable the victims to obtain a restraining order, and to evaluate the anti-stalking law. The objective mentioned by the right-wing Freedom Party voice is to punish pressurizing of another person and violence. The policy action proposed is to help women and men by a new law, by police intervention in cases of violence, and by faster processing in the courts. The objective mentioned by the Social Democratic Party is fast, effective protection of victims without high costs. Policy actions proposed are to make all forms of stalking an offence requiring public prosecution and to enable the police to give eviction orders. The objective mentioned by the Green Party is effective protection of victims and women regardless of education, resources and knowledge. The policy action mentioned is to enable immediate police intervention and to refuse invoking high costs as an argument when it comes to the protection of women from violence.

The objective mentioned by the NGO voice is protection for victims of stalking. The policy actions mentioned are to increase punishment for stalking, to define stalking without reference to perpetrator's intention, to entitle victims to psychological and legal support during court procedures, to remove mediation as a means to settle the issue, to include close relatives of the victim in injunction orders, to entitle victims to testify in absence of perpetrator, to shift competency of cases to judges dealing with family law, and to enable victims to have access to restraining orders without financial risk of court procedure.

In the sub-issue **trafficking**, the objective of the law is to punish trafficking in persons. The policy actions proposed are to punish recruitment for exploitation, accommodation for exploitation, and transporting for exploitation, regarding sexual exploitation, exploitation of labour power, and exploitation by removing organs, and to punish these crimes more severely if committed by violence or against minors.

The objectives of the explanatory material are respect for the right to self-determination and human dignity and protection of minors from sexual exploitation. The policy actions proposed are to introduce a new regulation to combat trafficking by punishing sexual exploitation, exploitation by removing body parts and exploitation of labour power.

The objectives of the governmental report are to protect women and girls from harmful traditional practices, to help victims of trafficking and to prevent criminal organizations from trafficking victims into Western Europe. The policy actions proposed are to grant victims of trafficking residency permits on humanitarian grounds and to grant a 30 day reflection period to victims of trafficking.

The objective mentioned by the Minister for Justice (right-wing party Association Future Austria) is effective protection of victims and combating organized crime. The policy action mentioned is to support the Task Force against Trafficking. The objectives mentioned by the Conservative party voice are security of the population and effective protection for victims of trafficking. The policy action proposed is to combat and prevent trafficking, and not to condemn tourism and the entertainment business in general. The objectives mentioned by the Social Democratic Party are protection for victims of trafficking and protection of prostitutes from exploitation. The policy actions proposed are to extend the stabilization period for victims of trafficking and to punish punters knowingly exploiting prostitutes. The objective mentioned by the Green Party is to protect victims of trafficking and to provide them with access to the labour market. The policy action proposed is to create access to the labour market for victims of trafficking.

The implicit objective mentioned by the NGO voice is elimination of all forms of trafficking in women and elimination of exploitation of prostitution of women. The policy actions proposed are to stop criminalizing women victims of trafficking, to recognize them as victims of a crime, to stop expulsion, stop deportation and stop prohibition from residing in Austria, to create a legal right to work and entitlement to health insurance, to issue unlimited residency permits if women cannot return to their country of origin, to include the victim into a witness protection programme if her life is threatened, to enable victims to address compensation already in the criminal trial, and to create additional resources for the NGOs working with victims of trafficking.

2. Roles in Diagnosis and Prognosis

The greatest diversity regarding active actors in diagnosis can be detected in the sub-issue **domestic violence**: the problem of dangerous threats against close relatives is argued to be caused by the perpetrator, but also by women who reconcile with their partner and withdraw consent to prosecution. Both arguments are gendered. The NGO text argues that the state causes the problem by making prosecution dependent on the victim's consent. Roles in prognosis are much more uniform in the sense that the objective is to protect the target group victims, who are mentioned as being mostly women. A right wing party explicitly mentions women as having to face the consequence that men will be held accountable for violence. Here, again the NGO text mentions the state explicitly as the responsible institutional actor. Men are not mentioned as responsible actors.

In the sub-issue **sexual assault (stalking)**, roles in diagnosis are also diverse. The problem of stalking is seen as affecting the de-gendered individual person (law), women and children (report), men as well as women, women, victims, victims who are primarily women (all in the debate), and (female) victims and relatives of victims such as children (NGO text). Intersection of gender, class, and educational status are

addressed in the debate and NGO text in the sense that access to protection and justice is seen as being dependent on the income and education of victims who are primarily women. Marital status and gender are addressed in stating that most stalkers are ex-partners. In prognosis, affordable protection of victims is mentioned as an objective.

In the sub-issue **trafficking**, passive actors in diagnosis are human beings and persons, minors (being sexually exploited), women and girls in Austria (implying intersection with migrant status, ethnicity and/or religion), all European countries, victims of trafficking, prostitutes, women and young people, and women affected by trafficking. In prognosis, generally victims of trafficking are mentioned as target groups, minors are to be especially protected from sexual exploitation, but also women and girls should be protected from harmful traditional practices, the Austrian population should be helped by increased security, and criminal organizations should be prevented from trafficking victims into Western Europe. Men are not mentioned in roles in either diagnosis or prognosis. Intersections of gender and other inequality axes can be found only in girls (age), and in the implied intersection gender/migrant status/ethnicity/religion in mentioning 'women and girls' to be protected from harmful traditional practices.

2.a Roles in Diagnosis

In the sub-issue **domestic violence**, no active actors are mentioned in the law. Passive actors mentioned in the law are threatened persons who may be close relatives. In the explanatory material, the active actor mentioned is the perpetrator (blaming wife for prosecution), passive actors are victims, close relatives, wife and female partner. The intersection of gender and marital status is addressed in wife and female partner.

No active actors are mentioned explicitly in the report. Implicit passive actors are women (affected by violence and discrimination). Gendering is implicitly there in reference to women. Intersectionality is present in mentioning the target groups of migrant women and elderly women affected by violence in past policy actions which are evaluated as good.

No active actors or passive actors are mentioned in the debate by the Conservative Party voice. Active actors mentioned by the right-wing Freedom Party voice are implicitly women; passive actors are also women (men are never punished for threatening women because women reconcile and withdraw consent). No active actors are mentioned by the Social Democratic Party. Passive actors are victims of dangerous threats among relatives.

Active actors mentioned by the NGO voice are the lawmaker (making prosecution dependent on action by victim) and perpetrator (pressurizing victims to withdraw

consent). Implicitly, society is mentioned as an active actor in considering domestic violence as a taboo. Passive actors are victims.

In the sub-issue **sexual assault (stalking)**, the implicit active actor in the law is a person persistently pursuing another person; the passive actor is a person who is persistently pursued and whose life is interfered with in an unacceptable way. In the explanatory material, the active actor is the perpetrator; passive actors are victims of stalking (men victims and women victims of stalking). Gendering is present in mentioning that more women than men become victims of stalking.

In the governmental report, active actors are stalkers (ex-partners), passive actors are women, children, and women victims of stalking. Gendering is present in mentioning women victims of stalking, and stalkers; intersectionality (gender/class) is present in stating that women's dependence is caused by unequal economic positioning, and in mentioning that stalkers are ex-partners (marital status). Age is mentioned by reference to children being affected by family violence.

No active or passive actors are mentioned in the debate by the Minister for Health and Women (Conservative Party voice). No active actor is mentioned by the Minister for Justice (right-wing Association Future Austria party); passive actors are men and women victims of stalking. Active actors mentioned by right-wing Freedom Party are former Ministers for Justice and the Interior (ignoring the problem); passive actors are women who are terrorized, women victims of stalking, and victims of stalking. Active actors mentioned by the Social Democratic Party are the government (implicit) and Ministry of Finance and the Interior (past policy action); passive actors are victims of stalking. Gender is spelled out in mentioning that the vast majority of victims are women, the vast majority of perpetrators are men, and that the vast majority of women victims are stalked by their ex-partner. Intersectionality is present in marital status (ex-partner as stalking women). The active actor mentioned by the Green Party is the government; passive actors are victims of stalking, and women as primary victims of stalking.

Active actors mentioned by the NGO voice are the lawmaker, judges and perpetrators of unsound mind; passive actors are victims of stalking, relatives of victims such as children, and women victims of stalking with low incomes. Gendering and intersectionality with class is present for the latter.

In the sub-issue **trafficking**, in the law diagnosis the implicit active actors of underage persons and adult persons are mentioned. In the explanatory material, active actors are not mentioned. Passive actors in diagnosis are minors, victims, prostitutes, and donors of organs.

In the report, no active actor is mentioned. Passive actors are women in Austria and girls in Austria affected by harmful traditional practices.

In the debate, no active actors are mentioned apart from by the Green Party, which mentions the government as active actor (denying access to the labour market for victims of trafficking). Passive actors mentioned by the Minister for Justice (right-wing party Association Future Austria) are victims of trafficking. The Conservative Party mentions all European countries as passive actors. The Social Democratic party mentions victims of trafficking and prostitutes as passive actors. The Green Party mentions victims of trafficking, women and young people as passive actors.

In the NGO text, authorities and the state are mentioned as active actors. Passive actors are women affected by trafficking, victims of trafficking, migrant women affected by trafficking, and asylum seekers.

2.b Roles in Prognosis

In the sub-issue **domestic violence**, the law mentions no responsible actor explicitly; judges are implicitly mentioned as responsible for finding the right range of punishment. No target groups are mentioned explicitly, implicit target groups are persons threatening another person, such as spouse, parent, child, brother or sister. Gendering is present in mentioning sister and brother; intersectionality in mentioning parents (age) and spouse (marital status). In the explanatory material, the responsible actor is the lawmaker. Target groups are victims and threatened close relatives, and implicitly the perpetrator (according to the explanatory material, some perpetrators have a blurred perception of the situation: some put the blame for their violent behaviour on the victim. By removing the condition of consent of the threatened person to prosecute the perpetrator, any attempts of the perpetrators to blame the victim for the violent behaviour should be counteracted). There is no gendering or intersectionality present in target groups.

No responsible actors are mentioned in the report. The target group is women, but only implicitly.

In the debate, target groups mentioned by the Conservative Party voice are victims, people and population, and every person living in Austria. Responsible actor is the state (should prosecute barbaric crimes). Intersectionality with migrant status and ethnicity/religion is implied in 'every person living in Austria', and the context of harmful traditional practices, but it is not spelled out. For the right-wing Freedom Party voice, no explicit target groups are mentioned. Implicit responsible actor is the lawmaker. For the Social Democratic Party, implicit target groups are victims of dangerous threats among close relatives. Intersectionality is present in mentioning threats by spouse (marital status) and threat by other relative (family status).

Responsible actor for the NGO voice is the lawmaker. Target groups are the population and every person (to be protected from violence and to prevent violence),

victims of dangerous threats by relatives. Intersectionality is suggested in reference to threats by close relatives (family status).

In the sub-issue **sexual assault (stalking)**, implicit target groups in the law are the person being persistently pursued and the person persistently pursuing another person/perpetrator. No responsible actors are mentioned in the law. In the explanatory material, target groups are victims of stalking, and the responsible actors are the lawmaker and victim support centres.

Responsible actor in the report is the lawmaker, and target groups are victims, victims of domestic violence, women, and victims of stalking.

In the debate, the Minister for Women and Health (Conservative Party voice) mentions the Minister for Justice as responsible actor. Target groups are those affected by stalking, women in Austria threatened by violence and psychological-terror (intersectionality with migrant status, ethnicity or religion might be implied here, but it is not spelled out). Responsible actor mentioned by the Minister for Justice (right-wing party Association Future Austria) is the lawmaker, and target group is victims of stalking. Responsible actors mentioned by right-wing Freedom Party are the lawmaker, the police and courts. Target groups are persons who are pressurized (implicit), women victims of stalking, and men victims of stalking. Gendering is present in women and men victims of stalking. Responsible actor mentioned by the Social Democratic Party is the lawmaker, and target groups are victims of stalking. Responsible actor for the Green Party is the government, target groups are women and victims of violence. Gendering is evident in reference to women.

Responsible actor for the NGO voice is the lawmaker, target groups are victims of stalking, perpetrators, close relatives of the victim, and judges.

In the sub-issue **trafficking**, the law mentions the lawmaker as responsible actor. Target groups are underage persons and adult persons who are exploited. In the explanatory material, responsible actors are not mentioned. Target groups are minors, victims, minor victims, and victims of trafficking.

In the report, target groups are women and girls in Austria, criminal organizations and victims of trafficking. Responsible actors are federal governors and authorities.

In the debate, no responsible actor is mentioned by the Minister for Justice (right-wing party Association Future Austria). Implicit responsible actors are the Ministry of Justice, Ministry of the Interior, federal states, and NGOs. Target groups are victims of trafficking. The Conservative Party mentions all European countries as responsible actors, and target groups are victims of trafficking and the population. The Social Democratic Party mentions the government as responsible actor. Target groups are victims of trafficking and prostitutes (also underage prostitutes). The Green Party

mentions government as responsible actor, and victims of trafficking as the target group.

In the NGO voice, responsible actors are the lawmaker and authorities. Target groups are women (implicit), and women affected by trafficking.

3. Location

Summary

The problem of gender-based violence is mostly located in both intimacy and polity, rarely in intimacy or polity alone, and very rarely also in economy (trafficking as biggest source of income for international organized crime, critique of the argument that measures against stalking may not be costly), never in civil society. The solution is mostly located in polity and intimacy, sometimes in polity alone. Sometimes it is also located in combination with economy, especially in NGO texts and by Green Party and Social Democratic Party voices.

In the sub-issue **domestic violence**, location in the law in diagnosis (implicit) and in prognosis (implicit): intimacy together with polity. Location in the law material in diagnosis: polity, and polity together with intimacy. In prognosis: polity.

Location in the report in diagnosis (implicit): polity together with intimacy and polity. In prognosis (implicit): polity

In the parliamentary debate for the Conservative Party, location is intimacy together with polity in diagnosis and polity in prognosis. For the right-wing Freedom Party, location is policy together with intimacy in diagnosis, and polity in prognosis. For the Social Democratic Party, location is intimacy together with polity in diagnosis and prognosis.

Location in the NGO text is intimacy in diagnosis, and intimacy together with polity in diagnosis and prognosis.

In the sub-issue **sexual assault (stalking)**, location in diagnosis in the law is intimacy (implicit), and intimacy together with polity in prognosis. Location in the law material is polity and polity together with intimacy in diagnosis and polity in prognosis.

Location in the report is intimacy together with polity in diagnosis and prognosis.

Location in the debate for the Minister for Women (Conservative Party) is polity together with intimacy in prognosis. Location for the Minister for Justice (right-wing party Association Future Austria) is polity and polity together with economy in diagnosis, and polity together with intimacy in prognosis. For the right-wing Freedom Party, it is polity and intimacy (separate) in diagnosis and polity together with

intimacy in prognosis. For the Social Democrats, it is polity together with intimacy and economy in diagnosis and in prognosis. For the Green Party, it is polity together with intimacy, economy together with polity in diagnosis, and intimacy together with polity and economy in diagnosis and prognosis.

For the NGO voice, it is polity together with intimacy and polity together with intimacy and economy in diagnosis and polity together with intimacy in prognosis.

In the sub-issue **trafficking**, location in the law is implicitly polity in diagnosis and prognosis. In the explanatory material, location in diagnosis is polity, intimacy/economy, polity/economy/intimacy polity/intimacy and economy/polity. Location in prognosis is polity/intimacy.

Location in the report is polity/intimacy in diagnosis and prognosis and polity in prognosis.

Location in the debate in diagnosis and prognosis for the Minister for Justice is polity. For the Conservative Party, it is polity and polity/economy in diagnosis and polity in prognosis. For the Social Democratic Party, it is intimacy and polity in diagnosis and intimacy/polity in prognosis. For the Green Party, it is polity, polity/economy and economy/polity/intimacy in diagnosis and polity in prognosis.

For the NGO voice, location in diagnosis is economy/polity and polity, and polity in prognosis (resources mentioned as policy action).

4. Norms

Summary

The underlying norms in Gender-based Violence are usually about freedom from violence, protection against violence, or protection against unacceptable interference into someone's life. The notable exception is the sub-issue of trafficking, which has a vast range of underlying norms that mirror the diverse locations of what exactly the problem is. While the legal texts have freedom from exploitation, human rights, and autonomy as underlying norms, the governmental report implies freedom from violence and human rights as underlying norms in diagnosis, whereas in prognosis, the norms are to combat crime, restrict immigration, and resources for victims. In the debate, the norms range from security for the Austrian population, combat crime, protection of victims, choice (of prostitutes), to equal access to basic alien, social and labour rights. The NGO text implies gender equality as an underlying norm. Apart from the NGO voice in sub-issue of sexual assault, norm groups are not invoked.

In the sub-issue **domestic violence**, underlying norms in the law in diagnosis and prognosis are prosecution and adequate punishment of dangerous threats regardless of relationship. In the law material, it is conformity with EU law (not a problem),

punishment for crime, collaboration of victim, autonomy of victim, adequate perception of reality and responsibility for own actions.

Underlying norms in the report in diagnosis are equality (implicit) and freedom from violence and non-discrimination of women, and in prognosis norms are human rights of women, gender equality and non-discrimination of women (implicit).

Underlying norms in the debate for the Conservative Party in diagnosis are freedom from violence (also prognosis), and dignity of person, inviolability of person and protection of the people and rule of law in prognosis. Underlying norms for the right-wing Freedom Party in diagnosis are punishment for crime (also prognosis) and freedom from violence in prognosis. For the Social Democratic Party, norms are freedom from violence and prosecution of crime in prognosis.

The underlying norms of the NGO voice are freedom from violence, freedom from coercion, security of person, and protection of person, security of person, and prosecution of crime in prognosis.

Norm groups are not invoked.

In the sub-issue **sexual assault (stalking)**, underlying norms in the law are freedom from harassment in diagnosis and autonomy of person and protection from harassment in prognosis. In the law material, they are rule of law and conformity with EU law (not a problem), autonomy, freedom from violence, freedom from interference, prosecution of crime in diagnosis, and respect for human dignity and respect for right to self-determination in prognosis.

Underlying norms in the governmental report are freedom from violence (also prognosis) and enjoyment of human rights in private sphere in diagnosis and integrity and autonomy in prognosis.

Underlying norms in the debate for the Minister for Women (Conservative Party) are freedom from violence and integrity in prognosis. For the Minister for Justice (right-wing party Association Future Austria), norms are adequate perception of reality (stalking affects men as well as women), protection from violence and equal access to justice in diagnosis, and freedom from violence and integrity in prognosis. For the Social Democrats, norms are freedom from violence and equal access to protection in diagnosis and prognosis, and strong victim's position in criminal procedure in diagnosis. For the right-wing Freedom Party, norms are adequate perception of reality, punishment, freedom from violence, access to protection from violence, and efficiency in diagnosis. In prognosis, they are freedom from violence and punishment. For the Green Party, underlying norms are protection from violence, access to protection from violence, adequate perception of reality, health and economic reasoning in diagnosis, and equality and freedom from violence in prognosis.

Underlying norms in the NGO text in diagnosis are freedom from violence, protection of victim, legal reasoning, criteria for punishment, treatment of mentally ill perpetrators, well-being of children, equal access to justice and equal access to support (women with low income), equal treatment in criminal procedure, compensation for harm, well-being of victim, and competency (of judges) (norm groups are victims of deliberate violence, victims of dangerous threat, and victims whose stalker is a close relative); in prognosis, norms are freedom from violence and autonomy.

In the sub-issue **trafficking**, the underlying norm in the law diagnosis is freedom of persons (implicit), and in prognosis, freedom of persons and freedom from exploitation. In the explanatory material, the norms are conformity with EU and UN law (implicit), unharmed sexual development, unharmed moral development (both also in prognosis), freedom from exploitation, autonomy, well-being of victim, adequate remuneration, adequate working conditions, right to bodily integrity, health, and human dignity in diagnosis. In prognosis, they are human rights, respect for human dignity and right to sexual self determination.

Underlying norms in the report in diagnosis are freedom from violence (also in prognosis), and human rights (absence of harmful traditional practices). In prognosis, they are to combat crime, restricted immigration, and adequate support for victims.

Underlying norms in the debate for the Conservative Party in government are to combat crime in diagnosis and protection of human rights and security in prognosis. For the Minister for Women (right-wing party Association Future Austria), norms in diagnosis are collaboration of victims to combat crime, and well-being of victims (not a problem); and human rights and combat crime in prognosis. For the Social Democratic Party, norms are recovery of victims, freedom from coercion, and choice (of prostitutes) in diagnosis, and well-being and freedom of choice (for victims and prostitutes) in prognosis. For the Green Party, they are equal access to labour market and human rights in diagnosis. In prognosis, the norm is human rights.

Underlying norms in the NGO voice in diagnosis are adequate support according to international estimates, adequate perception of reality, fair treatment, human rights, expertise, legal right to residency, knowledge, autonomy, right to work, health insurance and adequate basic support. In prognosis, they are gender equality and non-discrimination of women.

5. Voice

Summary

Governmental texts address intersectionality in the form of gender/marital status (stalkers are ex-partners, women primarily victims) in the governmental report on

sexual assault. In the sub-issue of trafficking, there is intersectionality of age and gender in the law material, and of gender, age, and implied ethnicity/migrant status/religion (protect women and girls in Austria from harmful traditional practices and to protect victims of trafficking) in the governmental report.

NGO texts differ in the sense that these texts explicitly articulate the state or lawmaker as both active actors causing the problem and as actors responsible for solving the problem throughout the sub-issue Gender-based Violence, and in the sense that the problem and solution are also located in the sphere of economy (resources).

We can conclude that intersectionality is addressed as gender and citizenship status/nationality.

3.5 Summary and comparison

a. Gender+ equality policy

Definitions of gender equality policy

Gender equality is mentioned alongside equal representation of women and men in federal service, equal treatment of women and men regardless of family or marital status, special measures to promote women, and define gender-based harassment as discrimination. Discrimination on grounds of marital status is seen as incompatible with gender equality. Preference for a woman if a man is better qualified is refused. Other definitions include equal treatment of women and men beyond the private sector of the economy. It is striking that in the parliamentary debate equal treatment is mentioned but not defined further. In the NGO text, gender equality is seen as a best practice model for positive measures for disadvantaged minorities.

Meaning of gender, de-gendering

Gender means women and men, and to a lesser extent, women. In parliamentary debate, gender seems to be de-gendered in the sense that equal treatment is mentioned but not defined any further. In the NGO text, gender means migrant women and men.

Who is a target group, who is responsible, demands

Target groups are persons discriminated against on grounds of gender (including marital status) in federal service, and women in federal service. In the governmental report, the target group is the broadest in the sense that it talks about women and men, and persons discriminated against in employment and in other areas than employment. In the NGO text, gender equality is implicitly to be achieved in order to advance migrant women and men. **Responsible actors** are usually not mentioned, with the exception of the law and law material mentioning state actors (government, ministries, units within ministries, equal treatment bodies, the state as an employer).

Demands for gender equality are coming from **state voices** (law and law material, Minister for Economics and Labour to a lesser extent), and Social Democratic Party and Green Party voices. The NGO seems to demand equal treatment regardless of ground of discrimination, and not focus on gender equality, as it is mentioned as a best practice example and thus something that has been achieved, and something that facilitates integration of female and male migrants.

Gender equality as means or end, adjacent frames

Gender equality (elimination of discrimination) is seen as both an end in itself and as a means to the end of social and economic participation on the one hand and economic growth and higher competitiveness on the other hand (law material, governmental report). In the debate, it is either not mentioned, or referred to as an end in itself (elimination of discrimination). The NGO seems to see gender equality as something that has been achieved already as it is presented as a best practice model for disadvantaged minorities. In the law material and the governmental report, it is presented as a matter of equality and of economic growth, whereas the law itself defined only elimination of discrimination as a goal. In the debate, it is presented as an issue of equality, to a minor extent as a matter of human rights, and economic development. Thus, it is quite visible that there is **no agreement as to whether gender equality is an end in itself or whether it is necessary to achieve economic growth** (or elimination of discrimination for disadvantaged groups).

b. Gender+ equality machinery policy

Definitions of gender equality policy

The struggle over the definition of gender equality is most obvious. In all types of texts analysed for this issue, the central question is 'what is gender equality', or what is discrimination on grounds of gender, and who suffers from a lack of it, and who should be a target group for which kind of action. The meanings range from gender equality is about paying attention to men's needs and eliminating privileges of both women and men to gender equality is about equal treatment of women and men (that is threatened by including other inequality axes, such as age and disability), to gender equality is about changing gender roles and taking away the privileges of men.

Meaning of gender, de-gendering

In gender+ equality machinery policy, gender oscillates between meanings. It is conceived as being about men (pay attention to men's needs on the one hand, take away privileges of men on the other hand), women and men (taking away privileges and equal treatment of women and men), and gender relations (change gender roles).

Who is a target group, who is responsible, demands

Target groups are persons discriminated on grounds of gender, men and women, women, men, lesbians and gays. Gender equality is to be achieved by equality bodies, ministries, employer, and person responsible for discrimination. In the governmental report, politicians and the ministerial Men's Policy Unit are mentioned. In the debate, the Men's Policy Unit is mentioned. The Green Party mentions men as actors responsible for achieving gender equality. The NGO text mentions the Minister for Women's Affairs and the Men's Policy Unit as responsible actors.

The demands for gender equality (whatever meaning is attached to it) come from all voices and institutions analysed (government: law, governmental report; Ministers for Social Security and representative voices of Conservative, Social Democratic and Green Party: debate; and gay and lesbian NGO). However, it is apparent that what is understood as 'gender equality' varies enormously in meaning (see above).

Gender equality a means or an end, adjacent frames

Gender equality is an end. Equality is most often the sole framing of the document. As adjacent frames, health and well-being (of men) are found, as well as modernity and human rights (less strong).

Thus, the **meaning of gender equality ranges from paying attention to men's needs, to equal treatment between women and men, to changing gender roles and taking privileges away from men.**

c. Non-Employment

Tax Benefit Policies & Care work

Definitions of gender equality policy

A striking feature is that **gender equality is not mentioned** in the sub-issues **tax-benefit policies** and **care work**. In both sub-issues, the problem and solution as well as the underlying norms do not usually refer to gender equality, apart from two minor exceptions: the governmental report on tax-benefit policies and a statement of the Minister for Social Security on care work. Gender equality is thus not a concern that is expressed in the policy documents analysed. The issues of financial support for having children on the one hand, and legal regulation of care work for the elderly on the other hand, are generally not seen as issues relevant to gender equality. The issues are presented as being about well-being (of the elderly, of children) in care work and in tax-benefit policies.

Reconciliation

Definitions of gender equality policy

Gender equality is named as the improved employment situation of women and increase of fathers' participation in childcare (law material), as elimination of

discrimination against women in employment (governmental report), as measures forcing fathers to participate in childcare (debate, right-wing party), as increasing fathers' participation in childcare (Social Democrats; Green Party), and as creating structural conditions for going back to work as soon as possible for women (NGO). Thus, especially in parliamentary debate, there is no agreement on what gender equality means: it may mean that men should not be forced to take part in childcare, or it may mean that current measures to encourage men to participate in childcare are insufficient.

Meaning of gender, de-gendering

In reconciliation policy texts, women on the one hand, men (fathers) on the other hand, are seen as the ones affected by measures that aim at gender equality. They seem to be understood as separate groups, and not from a gender relations point of view.

Who is a target group, who is responsible, demands

In reconciliation policy texts, parents of small children, persons without Austrian nationality, persons who cannot be deported to the country of origin, women and men (fathers) are seen as target groups of measures that aim at gender equality. Women and men seem to be understood as separate groups, and not from a gender relations point of view. Responsible actors are rarely mentioned. Demands for gender equality can be found at the level of government (law, governmental report to CEDAW), from Social Democratic and Green party voices, and NGO voices. Right-wing voices also call for gender equality, meaning: not to force men to participate in childcare.

Gender equality as means or as end, adjacent frames

Gender equality is seen as an end in itself, but also as a means to achieve economic goals (positive consequences for employment and Austria as business location), and both conceptions seem to be equally strong in reconciliation texts. In the debate, it is also seen as something negative forced onto fathers. Gender equality is most often presented as an issue of equality and economic growth. To a lesser extent, human rights and demographic growth (families with children) are referred to. When it is presented as an issue of human rights (governmental report to CEDAW), gender equality is de-gendered, which means that under the heading elimination of discrimination against women, de-gendered parents are listed.

Gender pay gap

Definitions of gender equality policy

Gender equality in the law and law material is seen as eliminating gender discrimination in pay in the private sector, especially on grounds of marital or family status, as not discriminating when assessing work of women and men, as equal treatment between women and men, and equality of women and men. In the governmental report, it is seen as supporting atypical choice of jobs for girls,

eliminating stereotypes in evaluating jobs, better valuation of women-specific jobs, and advancement of women's careers. In the debate, it is seen as enabling women to have a self-determined life, creating more high-level part-time jobs, enable reconciliation for fathers, and raise awareness of women to choose the right jobs. The right-wing party sees it as creating equal opportunities for women in the labour market, as paying more respect to women who renounce career for the sake of children, and as putting families with children at the centre of attention. The Green party sees it as reducing the gender pay gap and as introducing quota for women in the economy. The NGO voice sees it as eliminating discrimination against women in employment and to introduce a new definition of work.

Meaning of gender, de-gendering

In the sub-issue gender pay gap, gender means mostly women, sometimes also gendered structures in society. It may be seen as de-gendered, mostly in legal texts talking about discrimination in pay on grounds of gender.

Who is a target group, who is responsible, demands

In the sub-issue gender pay gap, gender equality is mostly to be achieved for women and men discriminated against on grounds of gender, persons discriminated against on grounds of gender, working women, girls, women re-entering jobs, women, young women, adults, older women, part-time employees, all mothers and fathers, women in employment and fathers. Gender equality is to be achieved by the state, trade union, social partners and society. The right-wing party mentions men as responsible for acting against emancipation of women.

Gender equality as means or as end, adjacent frames

In texts on the gender pay gap, gender equality is mostly seen as an end in itself, but also as a means to economic growth. Right-wing parties see it as a means to demographic growth (family with children). The NGO text sees it as a matter of human rights.

To sum up, **while tax-benefit policies and care work do not articulate that gender equality is a concern**, there is considerable disagreement in **reconciliation** as to what gender equality should be about. In **gender pay gap**, there is more agreement **that gender equality is about improving the status of women in employment**, while men are not seen as part of the problem or solution. When gender equality is articulated in reconciliation and gender pay gap, it is both seen as an end in itself, but also as a **means to economic growth**.

d. Intimate Citizenship

Marriage, separation, divorce

Definitions of gender equality policy

In the law, gender equality is not referred to. In the governmental report to CEDAW, fighting gender role stereotypes in the upbringing of children by introducing joint custody after divorce is mentioned under the norm 'right of a child to both parents'. The whole rationale of the report, however, is the elimination of discrimination against women. In the parliamentary debate, gender equality is rarely referred to. The Conservative Party implicitly refers to gender equality in the sense that they deny the dimension of unequal power relations after divorce, and frame the issue of unequal gender relations as being opposed to the well-being of the child (who will become divorce orphans with problems in relationships). The Green party mentions equal distribution of care and housework between women and men and structural conditions, but does not use the term gender equality. The Social Democrats do not explicitly use the term gender equality, but refer to women's autonomy in decision making, adequate resources and freedom from male power.

Meaning of gender, de-gendering

In the governmental report to CEDAW, women, men and boys are mentioned regarding the elimination of gender stereotypes in upbringing of children. In the debate, speakers who do not make reference to gender equality most often refer to parents and children. Even when implicit reference to gender equality is made by referring to power structures, the actors are de-gendered 'parents' or 'divorced parents', 'father or mother'. The Green Party mentions structural conditions, and women and children, and men and fathers who should share care and housework equally with women. The Social Democratic Party mentions women's autonomy in decision making, women's adequate financial resources, and women's freedom from male violence. The NGO text mentions women and children who have been victims of male violence, and previously violent fathers who still have custody after divorce.

Who is a target group, who is responsible, demands

In the governmental report, women, men and boys are target groups. Responsible actor is the ministerial Men's Policy Unit. In the debate, if gender equality is referred to (also negatively), target groups are children after divorce (Conservative Party) and women, men and fathers (Green Party), and women (Social Democratic Party). The NGO mentions women and children victims of violence.

Gender equality as means or as end, adjacent frames

Gender equality is sometimes an end in itself, but sometimes to be achieved in order to secure the well-being of children. Well-being of children is a very strong frame. Even in the governmental report to CEDAW, the emphasis of the new policy is put on enhancing the well-being of children rather than equality between women and men.

Other frames are cooperation of parents (in having custody over child), modernity, and human rights (joint custody as continued risk for the bodily integrity of women and children).

Sexual orientation discrimination and partnering

Definitions of gender equality policy

Sexual orientation discrimination and partnering is seen as an issue of equality regardless of sexual orientation, but not as an issue of gender equality.

Meaning of gender, de-gendering

Gender is mentioned as homosexual or same-sex men and women. Gender appears in the legal document as a reason for equal treatment to same-sex partnerships. It is argued that if a divorced woman enters a new (same-sex) partnership, the (male) ex-spouse would be ridiculed if he were obliged to continue financial maintenance for his ex-wife. In the debate, gender (combined with sexual orientation) is also mentioned by the Conservative Party as a reason for why same-sex partnerships should not receive equal treatment: if they were legally treated as equal to heterosexual partnerships, heterosexual partners would suffer negative consequences as they too would have to register their partnership.

Who is a target group, who is responsible, demands

As gender equality is not referred to, this question cannot be answered.

Gender equality as means or as end, adjacent frames

Gender equality is not addressed openly in policies on sexual orientation discrimination. The core issues of this policy are framed as equality (regardless of sexual orientation), wellbeing of child, reproduction of mankind, and human rights and justice issue.

Reproduction

Definitions of gender equality policy

Access to artificial reproduction techniques is seen as an **issue of equality, but not as an issue of gender equality**. Equal access to artificial reproduction techniques regardless of gender and sexual orientation, however, is presented frequently. The most explicit example is the NGO text mentioning inequality of lesbian women and single women as a problem.

Meaning of gender, de-gendering

Gender equality is referred to but mostly linked to sexual orientation (see above) and marital status. Gender thus means single women, lesbian women, and lesbian couples.

Who is a target group, who is responsible, demands

Gender equality is to be achieved for single women, lesbian women and lesbian couples. The demand comes from a gay and lesbian NGO.

Gender equality as means or as end, adjacent frames

Gender equality is an end. The core issues of reproduction are framed as equality issues (but hardly as gender equality, see above), as human rights and justice issue, and as issue of wellbeing (of the embryo).

To sum up: in **Intimate Citizenship**, **gender equality is sometimes articulated as an end in itself, but it is also articulated as a means to other goals, such as the well-being of children**. It is not openly articulated in sexual discrimination and partnering. In reproduction, it is very marginally addressed, even though (general) equality is a strong frame in both sub-issues.

e. Gender-based Violence

Domestic violence

Definitions of gender equality policy

Domestic violence is hardly named as a gender equality issue. Only the governmental report to CEDAW names domestic violence as an issue concerning elimination of discrimination against women, and thus as a gender equality issue. Domestic violence is most often defined as punishment of a crime (justice) and as an issue of preservation of bodily integrity and freedom from violence (human rights).

Meaning of gender, de-gendering

Domestic violence is rarely named as a gender equality issue; it is only in the governmental report to CEDAW that gender equality is referred to. Here it means non-discrimination of women. Domestic violence is presented mostly as a de-gendered issue involving de-gendered victims and perpetrators. Sometimes, however, it is mentioned that men are perpetrators and women are victims. The problem is most often seen as the wrong behaviour of individuals (perpetrators blaming victim, victims refusing to report violence), rarely in structures promoting or hindering gender equality.

Who is a target group, who is responsible, demands

An implicit target group for gender equality in the governmental report is women, there is no responsible actor mentioned. The voice speaking is the government in relation to the CEDAW Committee.

Gender equality as means or as end, adjacent frames

Domestic violence is explicitly named as gender equality only in the governmental report to CEDAW where gender equality and non-discrimination of women is an end.

In the other documents, gender equality aspects are sometimes referred to when talking about domestic violence, but they seem to be subsumed under a de-gendered 'protection of victims' frame, which may tend to either be about justice (punishment of crime, especially by right-wing parties) and/or about human rights (freedom from violence, right to bodily integrity, right to self-determination for person).

Sexual assault (stalking)

Definitions of gender equality policy

Stalking is rarely explicitly named as an issue of gender equality. It is vaguely connected to gender equality in the governmental report, when mentioning that stalkers are often ex-partners, but it is not clear how far this also implies ex-partners in lesbian and gay relationships. The Green Party articulates that victims of stalking are primarily women, and the NGO text articulates structural conditions that must be met in order to provide effective protection of victims of stalking and their children, but does not explicitly refer to gender equality.

Meaning of gender, de-gendering

It is striking in documents on stalking that gender is hardly addressed (see question above). Most often, stalking is articulated as a crime involving a perpetrator and a victim, and in this sense it may be called de-gendered. In the absence of de-gendering, there is disagreement as to whether victims are primarily women (Green Party, right-wing Freedom party), women and children (governmental report, NGO) or whether men are also victims of stalking (Minister of Justice). Resources, knowledge, and the judicial system are referred to by the Green party and the NGO.

Who is a target group, who is responsible, demands

If gender equality is referred to, target groups are women and children, and victims (who are primarily women).

Gender equality as means or as end, adjacent frames

If gender equality is referred to, it is seen as an end in itself. Most often, however, stalking is presented as an issue of justice (protection of victim, punishment of perpetrator) and human rights (freedom from violence). Economic reasoning is mentioned by the Green Party in the sense that effective protection of victims must not be made dependent on economic reasoning.

Trafficking

Definitions of gender equality policy

Gender equality is not explicitly referred to in documents on trafficking. At most, some elements linked to gender equality are named, such as protection from exploitation for women affected by trafficking in the NGO text. Trafficking is articulated as an issue of crime and justice (punish exploitation, punish international

crime), human rights (freedom from exploitation), and immigration. In the governmental report in particular, freedom from violence is implicitly linked to 'harmful traditional practices' and (restricted) immigration.

Meaning of gender, de-gendering

As gender equality is only referred to in some elements, protection from exploitation for women affected by trafficking is the closest answer that can be given to the above question. Social relations and structures are addressed in the NGO text, and by the Green party and Social Democratic Party to some extent, but otherwise trafficking is referred to in a de-gendered way in the sense of 'protection and freedom from violence for victims and punishment of perpetrators'.

Who is a target group, who is responsible, demands

Women affected by trafficking are target groups that are linked to a gender equality element by the NGO text. Otherwise, victims of trafficking and prostitutes are target groups. Responsible actors, if mentioned at all, are the state and the lawmaker. Gender equality demands are articulated in some elements in the NGO statement by an NGO working with women who are affected by trafficking.

Gender equality as means or as end, adjacent frames

As articulated in the NGO text, gender equality is an end. Otherwise, since gender equality is not explicitly referred to, trafficking is presented as an issue about crime and justice, human rights, and immigration. Economic reasoning is intrinsic in the legal texts as trafficking is also defined as having a component of economic exploitation.

To sum up: gender equality is generally not articulated in **domestic violence** and mentioned only in the governmental report to CEDAW. If present, some gender equality aspects seem to be subsumed under a **de-gendered justice frame (protection from crime)**, and under a **de-gendered human rights frame** (right to bodily integrity of victims). In **sexual assault**, gender equality is sometimes articulated as an end in itself, but most often, **stalking is presented as a de-gendered issue involving justice and human rights**. In trafficking, gender equality is only referred to by the NGO text, and as an end in itself. Otherwise, trafficking is articulated as an issue of justice (fight international crime) and human rights, and linked to ethnicised immigration issues (connected to 'harmful traditional practices').

4 The range of intersecting inequalities

Preliminary note: For the purposes of this report, based on the Country Context Study Austria WHY and the Issue Histories Report Austria as well as the LARG Report Austria, we will identify the main inequalities that are seen as being intersected with gender in policy debate in general and in the analysed policy documents in particular, the main NGOs who openly deal with inequalities that are intersected with gender, and the main equality bodies dealing with inequalities intersecting with gender.

4.1 Main inequalities intersecting with gender

If importance is assessed by the history of controversies and visibility of policy debates, then the intersection of **sexuality, religion and gender** has been important and most prominent in the issue of abortion. During the last couple of years, there has been increased visibility of the struggle by religiously (Roman Catholic) motivated forces to limit the current legal framework allowing abortion generally up to the 12th week of pregnancy and up to birth if a serious disability is expected for the embryo.⁸ Another site of struggle has been the 2004 decision of the Federal Governor of Salzburg to allow abortions to take place in public hospitals in Salzburg, where abortions had previously only been carried out in private clinics, meaning that abortions were more costly, thus also introducing the inequality **class** into the issue.⁹

As outlined in the Country Context Study Austria, class interests have been dealt with as a part of the social partnership system, which has historically tended to have a very masculinist character.¹⁰ The explicit intersection of **gender and class** has been prominent lately in more visible public debates on the **gender pay gap**.¹¹ Feminisation of poverty has also to some extent reached more public visibility during the 2006/2007 efforts to introduce basic financial support for everybody ('Grundsicherung').

The intersection of **gender and ethnicity/citizenship (and possibly religion)** is a very problematic one in the sense that it seems unclear exactly which inequalities are seen as being intersected with gender. The main point here is that by referring to 'migrant women' or 'mothers from third world countries', or 'women living in Austria affected by harmful traditional practices', both citizenship status (having Austrian nationality or not), and belonging to an ethnicised group of people, and possibly being Muslim, may be meant. Examples where these categories are not conflated, such as Austrian people of colour, Austrian Roma and Sinti, or Western European

⁸ Tertinegg/Sauer (2008): Country Context Study Austria WHY; 63.

⁹ Tertinegg/Sauer (2007): Issue Histories Austria, 41.

¹⁰ Tertinegg/Sauer (2008): Country Context Study, 54.

¹¹ Tertinegg/Sauer (2007): Issue Histories Austria, 24.

migrants, are entirely absent. Usually, the exact inequality or inequalities implied are not made explicit. An analysis of intersectionality thus depends heavily on the context of the policy debate, as well as on what associations are evoked before and after the particular argument. This is most obvious in the 2006 debates on **childcare benefits for third-country nationals**¹² which were analysed as part of the sub-issue of **tax-benefit policies** under Non-Employment. The inclusion of religion is relatively open in the issue of migrant women's headscarves in the election campaign 2006. The same is true for the issue of harmful traditional practices affecting women in Austria during the EU presidency in the first half of 2006. Both issues, however, were not covered in policy analysis. Gender and ethnicity/citizenship (and possibly religion) is also present in Gender-based Violence sub-issues, most prominently in the sub-issue **domestic violence**, where Conservative Party voices link domestic violence with harmful traditional practices of 'other' cultures. In the sub-issue **trafficking**, intersecting inequalities are addressed in a somewhat blurred way. The NGO most openly refers to the gendered and classed dimensions of the issue, while there is a tendency in other policy documents to treat it as a de-gendered issue involving 'victims' of trafficking.

4.2 NGOs dealing with intersections of gender and other inequalities

The most frequent form of organisation of non-governmental organisations is organisation by strand.¹³ This is especially the case for the inequalities sexual orientation, religion or belief, age and disability. Regarding NGOs whose focus is on gender, most women's organisations active in the field of gender-based violence engage with the inequalities of class and ethnicity/religion/citizenship status and are well connected with migrant women's organisations and, to a lesser extent, with organisations dealing with class/poverty issues. Migrant women's organisations dealing with gender-based violence usually cover gender-based violence as one field of activity out of many. Thus, it seems that the combination of gender and class, ethnicity/religion/citizenship status (migrants) is more frequent than other combinations. This is especially visible in the policy fields of domestic violence and Non-Employment. Regarding NGOs primarily dealing with age and disability, it seems that they do not frequently deal with gender openly. NGOs dealing with sexual orientation seem to be intersecting with gender only partially. One major NGO dealing with religion and gender (the Austrian Catholic Women's movement) intersect with class/poverty to a great extent and with ethnicity/religion/citizenship status (migrant women) to a lesser extent in their work. NGOs dealing with class are rare due to the historic development of integrating class issues into the policy process by way of the social partnership representation of interests of employers and

¹² Tertinegg/Sauer (2007): Issue Histories Austria, 38. Tertinegg/Sauer (2008): Series of LARG Country Reports Austria, 2, Non-Employment, 17.

¹³ Tertinegg/Sauer (2008): Country Context Study, 49.

employees.¹⁴ One major civil society umbrella organisation dealing with class is the Anti-poverty Network (Armutskonferenz), representing a broad range of member organisations.

Thus, the combination of gender and ethnicity/religion/citizenship status and class are more frequent than other combinations.

Regarding multiple inequalities, an umbrella organisation of civil society organisations which explicitly take into account various grounds of discrimination has been created in 2004 in reaction to the non-transposition of the EU directive regarding NGO involvement.¹⁵ The primary aims of the umbrella organisation are counselling victims of discrimination and raising awareness of the role of NGOs in anti-discrimination policy, but it is not clear in how far multiple inequalities are seen as being interdependent or whether inequalities tend to be addressed as separate grounds of discrimination.

4.3 Doing intersectionality: civil society organisations and state bodies

When analysing state bodies dealing with intersectionality, one has to mention the bodies whose function is to explicitly cope with discrimination on grounds of gender as well as with another ground of discrimination according to the EU Anti-discrimination directives. The main bodies would be the Equal Treatment Commission for the private sector of employment and the Federal Equal Treatment Commission for employment in federal service.¹⁶ While the cases treated by these bodies were not included in the documents selected for analysis, a survey of the decisions that were made public¹⁷ by the Federal Equal Treatment Commission shows that only a very small percentage of the cases decided on that were brought before the body involved intersecting inequalities. If inequalities other than gender were mentioned as being a ground of discrimination in employment in federal service, they were age, belief (in the sense of political party affiliation) and sexual orientation. Ethnicity/religion/citizenship status is referred to only once, and only implicitly, in the case of a migrant woman complaining about sexual harassment at work, where the Equal Treatment Commission for the private sector stated that the way of addressing 'foreign employees' within that company was lacking intercultural sensitivity.¹⁸ **One may conclude that inequality due to an intersection of ethnicity/religion/citizenship status and gender is hardly addressed in cases brought before the Equal Treatment Commission for the private sector and for the Federal Equal Treatment Commission. Thus, the very state bodies whose function it is to deal**

¹⁴ Tertinegg/Sauer (2008): Country Context Study, 40, 52.

¹⁵ Tertinegg/Sauer (2008): Country Context Study, 12,13.

¹⁶ Tertinegg/Sauer (2008): Country Context Study, 8, 9, 11, 27, 28.

¹⁷ <http://www.frauen.bka.gv.at/site/5538/default.aspx>, accessed August 18, 2008.

¹⁸ <http://www.frauen.bka.gv.at/site/5510/default.aspx>

with 'multiple discrimination' on grounds of gender in addition to religion/belief, ethnicity, age and sexual orientation are rarely confronted with complaints involving intersections of inequalities. The relative lack of complaints involving discrimination in employment on grounds of ethnicity is noteworthy. For the Federal Equal Treatment Commission, it may partly be explained by the fact that employment in federal service is partially dependent on Austrian citizenship, and thus that access to such forms of employment for migrants is limited from the very beginning.

Regarding another state body dealing with various forms of inequality, the Equal Treatment Lawyer/Ombudsperson, whose function is mainly to advise, counsel and support victims of discrimination and to give information and provide sensitization regarding equal treatment in employment, intersectionality in practice is dealt with mostly in the form of age and gender, and ethnicity and gender.¹⁹ It is remarkable that the intersection of gender and ethnicity plays a major role for the body whose competencies are 'softer' (such as counselling, sensitising), while the intersection of gender and ethnicity does not seem to be very relevant to the body issuing more authoritative decisions (Equal Treatment Commission) on whether or not discrimination occurred.

Regarding disability, it is also noteworthy that intersectionality is not dealt with by the state body responsible for discrimination on grounds of disability. If a person wants to file a court procedure because of having been discriminated against on grounds of gender and on grounds of disability this is not possible and the person must choose either gender or disability in order to get the complaint dealt with at all by the body responsible for equal treatment regardless of gender, or equal treatment regardless of disability.²⁰

If other state bodies, whose function is not explicitly to 'deal with intersectionality' refer to intersectionality, it is mostly in the form of recognising that there are multiple forms of discrimination or inequality, without specifying what is meant by this.

As shown in the LARG Country Study, NGO texts refer to intersecting forms of inequality relatively frequently. Thus, the NGOs analysed seem to be 'doing intersectionality' in the sense of recognising that gendered individuals have different positions in society due to other inequality axes. However, as shown in the Country Context Study, one may not generalise this statement; in Austria, there is a vast variety of NGOs who, organised by inequality strand, do not seem to be taking gender into account when lobbying for improvements for their respective inequality strand. This seems to be especially the case for NGOs dealing with age and disability.

¹⁹ Sandra Konstatzky, 2008: Chancen-gleich? Die jüngste Novelle – aktuelle Probleme im Gleichbehandlungsgesetz, in: Juridikum 1/2008, 32

²⁰ Veronika Bauer, 2008: Mehrfachdiskriminierung, in: Juridikum 1/2008, 51,52.

Attempts to find an explanation for the above results can only be tentative; state bodies dealing with intersectionality do so mostly if it is their explicit legal function, but the access to procedures before such bodies is not the same for persons positioned on different inequality axes. This results in exclusion of certain inequality axes from the beginning, most noteworthy in the absence of inequality due to ethnicity/religion/citizenship status. It is remarkable that the intersection of gender and ethnicity plays a major role for the state body with 'softer' competencies (Equal Treatment Lawyer/Ombudsperson), while there are hardly any decisions regarding cases of discrimination involving gender and ethnicity by the state bodies with more authoritative competencies (Equal Treatment Commissions). This is also remarkable when one takes into consideration that discrimination on grounds of ethnicity currently enjoys the broadest spectrum of legal protection, both for employment and in access to goods and services.²¹ For other state bodies, intersectionality is rarely expressed in documents. This may be caused by the fact that legal terminology tends to be conservative and denies gendered aspects of life by using 'gender neutral' wording or masculine wording. Another possible explanation for this is that central areas of civil, administrative and criminal law operate with the idea of an 'average person' as a norm for the creation and implementation of law. That 'average person' tends to be imagined as a member of the male, heterosexual, fully employed, Austrian middle class.

²¹ Sandra Konstatzky, 2008: Chancen-gleich? Die jüngste Novelle – aktuelle Probleme im Gleichbehandlungsgesetz, in: Juridikum 1/2008, 32

5 Implications of different versions of intersectionality for meaning and practice of gender+ equality

5.1 Inequalities in general legislation and gender machinery

Consistency of equalities legislation and machinery

At the level of ministries, gender equality is dealt with in the **Ministry for Women's Affairs**. Other ministries have instituted working groups for gender mainstreaming, but the general competency remains with the Ministry for Women's Affairs, which has had very different institutional and competency settings since its establishment. The general impression²² of the researchers is that intersectionality in the current Ministry for Women, Media and Regional Affairs has been present mainly in the category 'migrant women' implying gender, citizenship/migrant status, and possibly ethnicity. Sometimes the needs of single mothers are addressed (categories gender, family status, possibly class). Gender and age also figures to some extent, and sometimes gender and the category rural/urban is mentioned. In general however, 'women' seem to be regarded as a homogenous societal group.

As outlined in detail in both the Country Context Study and the Issue Histories Report, the equalities legislation and machinery for employment in the private sector and for employment in the federal service was reorganised in 2004.²³ The previous machinery and legislation was responsible for equal treatment by gender only. After the 2004 rearrangement, ethnicity, religion or belief, age and sexual orientation were included. The respective bodies were split into several senates: one being responsible for gender, the other one for ethnicity, religion or belief, age and sexual orientation. In cases of 'multiple discrimination' involving gender and another ground, the body dealing with discrimination on grounds of gender is the one to decide on the complaint. Disability is regulated in an entirely different piece of legislation, and the equality body dealing with it is also very different from the ones outlined above.

This situation is assessed in literature as resulting in a problematic form of 'hierarchy' between various inequalities, where in cases of complaint some forms of inequality enjoy a broader, easier and accessible procedure by a body issued with more competencies, while other forms of equality (such as disability) do not enjoy the same legal protection.²⁴ **In that sense, equalities legislation is consistent with equality machinery, implying different levels of protection against**

²² Based e.g. on an assessment of the previous CEDAW reports prepared by the Women's Ministry.

²³ For a detailed account, see Tertinegg/Sauer (2008): Country Context Study, 9. Tertinegg/Sauer (2007): Issue Histories: Austria, 18-22.

²⁴ Veronika Bauer, 2008: Mehrfachdiskriminierung, in: Juridikum 1/2008, 51,52; Elisabeth Holzleithner 2005: Mainstreaming Equality: Dis/Entangling grounds of discrimination, in: Transnational Law and Contemporary Problems 14:3 (2005), 927-957

discrimination according to inequality axis, already at the level of equality machinery. This has also been criticised by NGOs, but according to the researcher's knowledge, there are no plans of the present government to change this.

Categories of inequalities used by equality legislation/machinery

As shown in the Country Context Study and LARG Report, the previous gender equality machinery for employment in federal service and in the private sector was expanded in 2005 following proceedings against Austria due to the failure to implement the EU anti-discrimination directives. The new categories of discrimination introduced were ethnicity, religion or belief, age and sexual orientation. They relate to the categories as separate, and mention that if there is multiple discrimination involving gender and another category, the body responsible for gender is to deal with the case. Disability is dealt with by a different machinery, and it has been noted that cases involving intersectionality of disability and gender cannot be dealt with adequately in the current machinery, as the bodies dealing with gender do not have the competency to 'take on' disability as an additional category of exclusion, and the body dealing with disability excludes court procedures invoking gender.²⁵

'Multiple discrimination' is the concept that is usually referred to when talking about the intersection of (at least two) inequalities. In rare cases of legal literature (but not necessarily in the documents stemming from the state bodies), 'intersectionality' is used as term equal to multiple discrimination.²⁶

5.2 Intersections in Non-Employment

Different employment rates of women by minority ethnic or religious group

In the issue non-employment, ethnicity as inequality axis is hardly ever mentioned. It is mentioned as a ground of discrimination in pay in the Equal Treatment Law (but not intersected with gender), and it can be seen as being implicitly referred to in the parliamentary debate on care for the elderly provided by illegal carers who are understood to be women from Eastern Europe. Citizenship status, on the other hand, is referred to frequently, mostly in the debate on childcare benefit for Non-Austrian nationals who have to prove their level of income in order to receive it, but it is not explicitly intersected with gender in most cases. Thus, different employment rates among women by minority ethnic or religious groups were generally not referred to in Non-Employment.

Different employment rates of women and amongst men by inequality axis

Unemployment and part-time employment of women is seen as a problem in the parliamentary debate on the gender pay gap in general. Age is referred to as

²⁵ Veronika Bauer, 2008: Mehrfachdiskriminierung, in: Juridikum 1/2008, 51,52.

²⁶ Such as various authors in Juridikum 1/2008: Antidiskriminierung

intersected with gender in parliamentary debate about the gender pay gap in mentioning young women who are mostly employed in lower-paid sectors of the economy (health, trade, social sectors). It is framed as problem of gender equality by the Social Democratic Party. Religion, sexual orientation, family status, and disability, do not figure in relation to different employment rates among women and among men.

5.3 Intersections in Intimate Citizenship

Gender in the issue of Intimate Citizenship

In the sub-issue marriage, separation, divorce, gender is most often de-gendered: 'parents' and 'parents after divorce' are usually referred to. If gender is explicitly referred to, it is by the Social Democratic Party, Green Party, and NGO voices, and is then linked to unequal power relations (including class dimensions) between women and men, especially within marriage and during and after divorce.

In the sub-issue same-sex partnering, gender is most often de-gendered as 'same-sex partners' or 'homosexual partners' (meaning both men and women). Gender appears in legal reasoning in the sense that one reason for partial legal recognition of a lesbian partnership in civil law is that the ex-husband of one of these women must not be subjected to ridicule. For a more detailed account, see question below.

In the sub-issue reproduction, see question below for a detailed account.

Constructions of gender

In the sub-issue marriage, separation, divorce, gender is most often only referred to implicitly, as the whole debate is about joint custody of 'parents', thus implying heterosexual couples. Gender is explicitly constructed most often as women after divorce (gender and marital status) or men exercising power after divorce. These constructions are found in parliamentary debate by Green Party and Social Democratic Party voices. Women (victims of violence during and after divorce), fathers and 'the violent parent' (implicitly referring to fathers) are mentioned by the NGO text. Class is present, but only sometimes, and always related to women (negative financial consequences of policies for women after divorce).

In the sub-issue same-sex partnering, gender is constructed by legal texts as ex-husband being subjected to ridicule by paying maintenance, and two women as partners. In the governmental report, it is constructed as homosexual men, lesbian couples, and heterosexual couples, all of them intersecting with age (below or above 14 and 18 years of age). In parliamentary debate, it is most often referred to implicitly as either same-sex partners or homosexual partners. If it is referred to explicitly, it is constructed as 'two men', 'two women' (Conservative Party), 'man and woman directed towards children', (right-wing Freedom Party), 'lesbians and gays' (Green

Party), and 'gay and lesbian couples', 'lesbian women' and 'single women' by the NGO voice.

In the sub-issue reproduction, gender is constructed as women and men. It is intersected with age (women older than 40, men older than 50), marital status and implicitly sexual orientation by referring to 'married couple or couple living in life-partnership similar to marriage', meaning heterosexual couples at the time. Gender is also intersected with notions of the 'abled body' when referring to different reasons for 'sterility in women' and 'sterility in men'. Sterility in women is split into sterility caused by certain physical reasons (for which treatment with artificial reproduction medicine is financially granted), and sterility caused by psychological reasons (for which treatment with artificial reproduction medicine is possible, but not financially granted, as it is argued that it would be too costly). Sterility in men is treated with artificial reproduction medicine and financially granted in all cases and no reference is made to arguments invoking 'high costs'. Class is mentioned in the sense that women and men having private health insurance should also be financially supported with artificial reproductive medicine techniques. This is present in the governmental texts (law, report).

In parliamentary debate, gender is present in reference to 'women' (suffering from wanting a child) and 'men' (concerned by sterility). The Green party mentions women older than 40 and HIV infected men and their female partners. Most frequently, de-gendered terms are used: 'people' and 'couples' wanting children (Conservative Party), 'those concerned by childlessness', 'childless persons' (right-wing Freedom Party), 'non-heterosexual couples', non-heterosexual life partners (Green Party).

The NGO voice mentions single women, lesbian women, non-biological mothers, sperm donors, and biological mothers.

Age figures only in the sub-issue reproduction, with mention to women older than 40 and men older than 50 in governmental texts as groups not getting financial support for artificial reproduction. This is criticised by the Green party voice.

Ethnicity/citizenship status figure in the sub-issue reproduction in the sense that financing artificial reproduction is seen as legitimately limited to Austrian nationals and Non-Austrian nationals with residency entitlement in Austria (by governmental texts). In the sub-issue same-sex partnering, ethnicity/citizenship status figure implicitly in the NGO voice which criticises the fact that homosexual partners are still excluded from family reunion in alien law. This argument is also made explicit by the Green Party in parliamentary debate (same-sex partner from Non-EU country disadvantaged).

Disability or notions of 'the able body' figure only in the sub-issue reproduction, where reasons for sterility in women and men are differentiated and connected to a

class aspect. Those of women are further differentiated according to 'physical' and 'psychological' reasons, and it is argued that only certain physical reasons for sterility can be the reason for financial support of artificial reproduction medicine. All other reasons for sterility (in women) are not, but seemingly all reasons for sterility in men are legitimate in terms of receiving financial support.

Class in the sub-issue reproduction was outlined above. In the sub-issue marriage, separation, divorce, it figures in the case of the divorced parent receiving maintenance. In the sub-issue same-sex partnering, it figures in the argument that an ex-husband is not obliged to continue paying maintenance after divorce if his ex-wife enters a new partnership with a woman (since this would subject him to ridicule). It also figures in parliamentary debate in the argument that same-sex partnerships should not be encouraged for purely economic reasons (right-wing party) and in the argument that same-sex couples are disadvantaged in tax law.

Relation of issues to immigration, inequality axis ethnicity

In Intimate Citizenship, issues discussed in relation to immigration are citizenship status in the sub-issues reproduction and same-sex partnering. In reproduction, citizenship status (Non-Austrian nationality) is seen as a legitimate reason to limit access to state-funded artificial reproduction medicine. In same-sex partnering, the NGO text mentions discrimination of same-sex couples regarding alien law provisions in cases of family reunion, implying citizenship status (Non-Austrian nationality) as a reason for restricting access to residency permits. Ethnicity is not referred to at all, but as outlined in all previous reports, sometimes the categories citizenship status/ethnicity/religion are blurred and it is not always clear which inequality axis is referred to. In the above examples, ethnicity may be implicated in reference to citizenship status (e.g. third country national).

Marriage/partnership policies and inequality axes

In the sub-issue marriage, separation, divorce, the category most often referred to is marital/family status (being married or divorced and having a child), and age (well-being of child). Class is referred to only rarely, sometimes in combination with marital status and gender (divorced parent receiving maintenance). Gender and marital/family status is also sometimes referred to (detrimental effects of policy on divorced women, divorced fathers exercising power), but only in parliamentary debate. It is noteworthy that citizenship status/ethnicity/religion are not referred to in this sub-issue. This absence may be because the issue of joint custody after divorce in 1999 was not perceived as having different implications for persons according to citizenship status/ethnicity/religion.

For the sub-issue same-sex partnering, see question below.

Legitimacy of legal recognition of intimacy and inequality axes

The major debate in Intimate Citizenship about legal recognition of intimacy concerns same-sex partnerships. The debate is about whether or not same-sex partnerships are to be considered 'equal' to heterosexual partnerships. The category raised is sexual orientation. Class and gender appear in the argument that to deny legal partnership status to two lesbians would be detrimental to the male ex-spouse of one of the women, as he would have to continue paying maintenance after divorce to his ex-wife and thus be subject to ridicule. Opponents of same-sex partnerships most frequently link sexual orientation with non-ability to reproduce, and argue that since same-sex couples are not able to reproduce (in a 'natural' way) they should not be legally recognised. Within the debate, sometimes the legitimacy of legal recognition of heterosexual partnerships that are not married (life-partners) is raised in the sense that it is emphasised that non-married heterosexual partners are disadvantaged in comparison to married partners.

5.4 Intersections in Gender-based Violence

Definitions of gender-based violence

In the sub-issue domestic violence, gender violence is defined as dangerous threats against relatives or persons living in the same household in the legal texts. This comprises spouses, parents, children, brothers and sisters. The law material mentions wives and women as victims. Such violence is seen as affecting victims heavily emotionally, which threatens their right to self-determination and autonomy. In the governmental report, violence is simply defined as 'domestic violence'. The Conservative Party defines violence as 'barbaric crimes of genital mutilation, dangerous threats inside the family, and coercion into marriage'. These are seen as threat to the dignity and inviolability of a person (victims and persons affected living in Austria). The right-wing Freedom Party mentions men's dangerous threats against women in relationships, and the Social Democratic Party mentions dangerous threats among relatives or spouses. The NGO voices define violence as violence among relatives causing a power relationship between perpetrator and victim that may result in more intense violence, including killing. It is noteworthy that the NGO definition is entirely de-gendered.

In the sub-issue sexual assault, violence is defined in the law as persistent pursuit or stalking (if someone attempts to come close or contact the person in a way that results in unacceptable interference in that person's life). In the law material, it is defined as a form of 'social violence'. Unacceptable interference means against the implicit or explicit will of the victim. It is mentioned that both women and men become victims of stalking, but that women are affected three times as often as men. In the governmental report, it is defined as violence in the family, especially against women and children, and as being performed mostly by ex-partners. Stalking is seen as violence in relationships which are- in legal terms- not dangerous threats, unlawful

entry, or bodily harm. It is defined as a massive breach of human rights. The Minister for Women (Conservative Party voice) defines violence as psychological-terror directed against women in Austria. The Minister for Justice (right-wing party voice) defines violence as psychological violence affecting men as well as women. Another right-wing party voice defines violence as terrorising and pressurising that affects mostly women. The Social Democratic Party voice defines violence as stalking affecting mostly women so severely that they avoid social contacts, change residency and job, and have problems in new relationships. Most perpetrators are men. The Green Party voice defines violence as violence against women (stalking) and requiring police involvement, as having many forms and leading to grave psychological and health consequences. Access to protection from this form of violence is linked to class aspects (education, resources). The NGO voice defines violence as violence that is directed towards the victims (stalking) regardless of the perpetrator's intention. Effective protection against this violence must be achieved irrespective of whether the perpetrator is legally held accountable for his actions or whether he is considered 'mentally ill'.

In the sub-issue trafficking, trafficking is defined in the law as 'crime against freedom' as recruitment, housing, transportation of an underage person with the intention that this person is exploited: sexually; by removing organs; or in his or her labour power; or by offering this person to a third person. If the person is an adult, this is punished only if it is done with 'unfair means', such as deceiving about facts, exploitation of position of authority, situation of plight, mental illness or condition that makes the person defenceless, intimidation, or giving or receiving an advantage for handing over that person. If trafficking is done with use of violence or dangerous threat, or committed against a person younger than 14, it is punished more severely. It is thus noteworthy that violence is not necessarily defined as being part of trafficking in the law, but seen only as an aggravating factor. In the law material, trafficking is defined as exploitation, meaning comprehensive or lasting suppression of vital interests of the victim (sexual, by removing organs, by exploiting labour power). Sexual exploitation is further defined as when the prostitute is deprived of a major part of the pay for sexual services or if working under dangerous conditions. Minors are mentioned as being especially vulnerable to sexual exploitation. In the governmental report, trafficking is not defined, but linked to 'harmful traditional practices' by stating that the protection of women and girls from harmful traditional practices and providing effective help for victims of trafficking are the highest objectives. In parliamentary debate, trafficking is defined as a dramatic form of organised crime by the Minister for Justice (right-wing party), and the second biggest source of income for international crime by the Conservative Party voice. The Social Democratic party voice defines trafficking as exploitation of (underage) prostitutes. The Green Party voice mentions women and young people who are trafficked into prostitution, into households and into marriages. The NGO voice does not define trafficking, but implicitly puts it under the heading of elimination of discrimination against women (as a reference to Article 5, CEDAW).

Victims, perpetrators, gender

In Gender-based Violence, women are not discussed as perpetrators of violence. Men are mentioned as (also being) victims in the sub-issue sexual assault in cases of stalking. If victims are defined, it is mostly women, rarely prostitutes, and sometimes children, girls, and minors. In a few cases it is mentioned that most perpetrators are men, spouses or other relatives, or ex-partners. Victims may also be defined as elderly women, and migrant women, but not frequently. However, in most cases victims and perpetrators are referred to without reference to their gender. It is noteworthy that the NGO voice in the sub-issue sexual assault discusses protection of victims under the aspect of legal/medical distinction of perpetrators: effective protection of victims should not be dependent on whether a perpetrator is classified as 'mentally ill'.

Causes of violence and inequality axis

Causes of violence can be seen as being implicitly related to notions of ethnicised 'culture' in the sub-issue domestic violence in the parliamentary debate on dangerous threats against close relatives. Domestic violence is linked to female genital mutilation and forced marriage and thus ethnicised by the Conservative Party voice. In the sub-issue trafficking, trafficking is also linked to 'harmful traditional practices' affecting women and girls in Austria in the governmental report, and thus is ethnicised. Marital status is sometimes seen as cause of (further) to violence in the sub-issues domestic violence (women withdraw consent for prosecuting spouse, perpetrator blames wife for prosecution), sexual assault (most stalkers are ex-partners) and trafficking (women trafficked into marriage). Sexual orientation as inequality axis is entirely absent and not discussed in relation to gender based violence.

Services around gender based violence directed at specific groups

Reference can be found to services especially directed at elderly people, elderly women, and children in the sub-issue domestic violence (governmental report). Services directed at migrant women are usually not referred to in the issue of Gender-based Violence. The only exception is the sub-issue trafficking where the NGO voice calls for more resources for its work with women affected by trafficking. Also the report on harmful traditional practices refers to services for trafficked and migrant women.

Specific groups that services should be directed towards are victims of stalking, sometimes mentioning a class aspect (regardless of income, regardless of education). This is mentioned by the NGO voice and the Green Party voice in the sub-issue sexual assault. Otherwise, in the sub-issue domestic violence, services for victims of violence are called for, but not in relation to any category.

Findings on intersectionality & Crenshaw's analysis

Violence against specific groups of women is hardly at all addressed in the issue Gender-based Violence; if categories of inequality are mentioned, it is age (young women, girls, elderly women), rarely class (women regardless of income and education). Ethnicity and citizenship status are implicitly addressed only by NGO texts calling for more resources for victims of trafficking. Otherwise, violence against women is ethnicised in the debate on domestic violence by Conservative Party voices which link domestic violence with female genital mutilation and forced marriages. It is also ethnicised in the governmental report in the sub-issue trafficking, where trafficking is linked to harmful traditional practices. Apart from the NGO text, solutions suggested do not target migrant women or structures that are responsible for migrant women's exposure to violence.

5.5 Summary and comparison

Intersectionality as ephemeral or embedded

Intersectionality does not seem to be a primary focus in Austrian gender+ equality policies and it is mostly understood as unequal treatment on grounds of gender and on grounds of another inequality. If it is not related to discrimination, then the combination of gender and another inequality is mentioned as causing a problem of some sort: migrant women (gender and citizenship status), third-country national mothers (gender and citizenships status and possible ethnicity), mother and father working part-time (gender and class).

Other inequalities: detriment to gender+ equality policy?

In **general gender+ equality policies**, two conclusions can be drawn: first, the introduction of other grounds of inequality into the equal treatment machinery did not result in a significant number of cases where intersectionality of gender with another inequality was dealt with at all. Despite the expectations that women with migrant background might face severe discrimination and disadvantages in employment, the records of equal treatment bodies shows that virtually no decisions were taken involving the gender and ethnic affiliation as grounds of discrimination. This means that despite the broad legal range of protection from discrimination, ethnicity so far does not figure as a significant ground of discrimination in terms of the gender+ equality machinery, and that intersectionality of gender with another ground of discrimination is rarely addressed. Second, because of the fact that not all inequalities are dealt with by the same bodies, women suffering from discrimination on grounds of gender and, for example, grounds of disability have considerably less (formal) legal protection and possibilities to fight discrimination than women discriminated against on grounds of age, sexual orientation, ethnicity or religion.

We might conclude that the inclusion of other inequalities thus did not lead to a significantly heightened awareness of gendered inequalities in the practice of gender + equality policies. It means that women face considerable obstacles and disadvantages depending on which other inequality axis they are positioned, and that men's position is not looked at. In that sense, **gender+ equality policies are not equally inclusive of all kinds of inequalities, but create a hierarchy of inequalities offering very different levels of protection from discrimination.** This applies for both the formal institutional level and the substantive level at which inequalities are considered in decisions in practice. It also means that gender (inequalities) are not usually considered when dealing with discrimination on other grounds of inequality.

In the sub-issue **care work**, it is probably most evident that a de-gendered focus on the inequalities age and class (how to provide elderly people in need of care with affordable high quality care?) is quite detrimental to gender + equality policy; the gendered nature of the issue is not recognised (i.e. that most people in need of care are women, and most persons caring for relatives are women), nor is the gendered-ethnicised content of the policy made explicit (amnesty for illegal carers resulting in women from Eastern Europe caring for Austrians legally under low-paid precarious working conditions without the usual social security rights).

In the sub-issue **reproduction**, the focus on class (financial support for artificial reproduction techniques) detracted from the gendered exclusions of the policy: the lower age limits for women relative to men, more medical exclusionary criteria for women than for men, and the availability of the procedure being dependent on heteronormative marital status (only for married heterosexual couples and heterosexual couples living in partnership).

In the sub-issue **marriage, divorce, separation**, the de-gendered attention to age and marital/family status (whether joint custody of both parents after divorce is in the best interest of the child) was detrimental to gender equality policies in the sense that women's vulnerability to pressure from the ex-spouse was increased in cases where women were the financially weaker party. This de-gendered attention was challenged by NGO voices.

In the sub-issue **same-sex partnering discrimination**, the focus on sexual orientation had interesting detrimental consequences to gender equality; the financial situation of women who entered a lesbian partnership after divorce was weakened in cases where they had received maintenance from ex-husbands. But the change was not argued with the focus on sexual orientation, but rather with a focus on gender (that the ex-husband would be subject to ridicule if he had to continue paying maintenance for his ex-wife when she is in a new relationship)

Gender equality and intersectionality: definitions, practice, relation

Intersectionality is mainly expressed as added grounds of discrimination (or multiple disadvantage) in the documents analysed. It seems to be expressed more often in contexts that explicitly refer to discrimination, but does not seem to be connected to privileging. Whether the relation of different inequalities is hierarchically organised or mutually constitutive is usually not expressed in the analysed documents – while it is clear in the practice of equality bodies and the literature that the relation is clearly hierarchical. Our understanding is that it might depend crucially on the context or policy field where discrimination and privileging occurs. As shown in **tax-benefit policies** (debate on child-care benefits for third country nationals), the inequality axis citizenship status, for example, will be the most visible one when assessed by looking at which rights a person has and the actual possibilities to fully participate in society and make autonomous decisions over one's life. But when looking more closely, gender can be expected to be decisive in the sense of (formally) having access to citizenship and enabling a person to act as full citizen in the first place. This may be due to the still existing discrepancy between social reality (mostly very different according to one's gender) and the legal constructions presupposing that every person has the same possibilities to become a citizen and must therefore fulfil the same formal criteria; Austrian mothers don't have difficulties in providing documents, which is why it is not tolerated if third country national mothers do.

What meaning does intersectionality, understood as the presence of gender and another inequality axis, have? Intersectionality as analysed in the Austrian documents in most cases means women who are classified under another inequality axis. The 'focus' on 'intersectionality' thus can be considered to influence the meaning of gender equality in the sense that women are no longer seen as a homogenous group, but as a group that is diversified according to various categories.

Commonality or differences: constructive attention to the issue or source of controversy

Following the analysis of the WHY Country Context Study Austria, the landscape of NGOs dealing with inequalities tends to be largely organised by strand, with the notable exception being migrant women's organisations. There seems to be little open cooperation between NGOs representing different inequalities. Different levels of legal protection accorded to different inequality axes are certainly a source of controversy. Usually NGOs representing the inequality axis that enjoys the least legal protection either formally or practically will pressurize for policy change. Examples are NGOs working with asylum seekers and migrants.

Intersectionality as source of controversy

The inequalities ethnicity/citizenship status are a source of controversy in **Gender-based Violence**: governmental voices locate the problem in ethnicised notions of violence: trafficking is linked to ‘harmful traditional practises’, and domestic violence is linked to ‘barbaric crimes’ such as forced marriage and FGM. Gender is only implicitly invoked. NGO voices on the other hand highlight both the gendered dimension of gender-based violence and the intersection of gender/citizenship status. **Conflicting ideas between NGOs and governmental voices about these intersections are obvious.** The intersection gender/ethnicity/citizenship status is a source of major controversy in **Non-Employment**, sub-issue tax-benefit policies, where financial benefits for children are debated in relation to the child’s and the mother’s citizenship status (third country national mothers). In **Intimate Citizenship**, ethnicity is not referred to at all, sometimes the categories citizenship status/ethnicity/religion are blurred and it is not always clear which inequality axis is referred to, and where citizenship status may refer to third-country nationals.

Absence of intersectionality: surprising or expected

The most notable absence of intersectionality is found in **Non-Employment** in the sub-issue care work, which is largely de-gendered and without reference to citizenship status/ethnicity, even though the legal change concerned legalising care arrangements where women from Eastern Europe perform care work in private households. This finding is surprising, given the fact that even the NGO voice did not openly consider intersectionality, and the policy change occurred during a government coalition of the Social Democratic Party (which has a relatively strong women’s organisation) and Conservative Party.

Another notable absence of intersectionality is found in **Gender-based Violence**, in the sub-issue trafficking, where the intersection of gender/class is absent apart from a Green Party voice.

The complete absence of intersectionality regarding gender/disability can partly be explained by the fact that there has been legislation dealing with disability from the 1970’s onwards, and that the ‘newly introduced’ inequalities, such as ethnicity, sexual orientation, religion, and age, drew much attention.

6 Identifying changes and relevance of different forms of intersectionality

6.1 Changes in general legislation and machinery

As outlined in detail in the Issue History Report and WHY Country Context Study, there has been a series of changes of gender equality machinery at the **ministerial level**. For the time being, there is a Ministry for Women, Media and Regional Affairs, situated at the Federal Chancellery. Following the transposition of EU anti-discrimination directives, the competency for ‘women’s issues’ was generally not enlarged to cover ‘other grounds of discrimination’, but the below mentioned bodies covering gender and ethnicity, age, religion or belief, and sexuality are institutionally linked to the Ministry for Women’s Affairs.

In 2005, following EU pressure to implement the respective anti-discrimination directives, the inequalities **ethnicity, religion or belief, sexual orientation and age** were included into Austrian equal treatment legislation and machinery (for employment in the public and private sectors). This resulted in an expansion of the previous bodies responsible for equal treatment regardless of **gender** to include the above inequalities as well. If a person is discriminated against on grounds of gender and on grounds of another inequality, the body dealing with gender is to decide on the case. As shown above, in practice intersectionality is hardly referred to in cases brought before the respective body.

The general consequences for gender equality policies are difficult to assess. If assessed by the outcome of cases, it is clear that intersectionality of gender and another ground of inequality is rarely evoked before the equal treatment machinery, especially in the combination gender/ethnicity; it is virtually absent from decisions of the more authoritative body, while at least partially present in cases brought before the body mainly offering advice and counselling.

As the equal treatment machinery concerns employment in the private and public sector, we might conclude that at least for the area of gender equality policies in employment, the concept of intersectionality has largely not arrived in the practice of gender equality bodies, even though intersectionality has been incorporated into the structure of these bodies. Other bodies dealing with different grounds of inequality (such as disability) continue to function officially ‘by strand’. This means that women at the intersection of gender and disability, for example, ‘fall through the cracks’ in Crenshaw’s terms, since they do not even have the formal possibility to claim both grounds of discrimination. Thus, while more grounds of inequality have been incorporated into law and structure, intersectionality does not seem to have become much more visible in the practice of gender+ equality policies since the major 2005 change in equality machinery.

6.2 Changes in Non-Employment

Intersectionality in Non-Employment varies greatly among the sub-issues, and it is thus difficult to detect significant turning points influencing the appearance of intersectionality. The sub-issue **gender pay gap** is significantly more gendered than the other sub-issues reconciliation, care work, and tax-benefit policy. Intersectionality in the gender pay gap issue appears most consistently in gender/class (women earning less than men, women academics rarely getting high-paid jobs) and gender/age (young women's choice of job, young girls' choice of education). Gender/ethnicity, gender/religion, gender/sexuality, and gender/marital status are only articulated as 'multiple grounds of discrimination' in pay in the legal documents. In all other documents analysed, intersectionality in these categories is absent, as is the inequality axis of disability.

Significant attention to gendered intersectionalities is also found in the sub-issue **reconciliation**, even though it is considerably less openly intersected. This depends to some extent on the fact that the intersection of gender and family status (if family status can be understood as 'having a child or not') is the most frequently named, but since the inequality axis marital status and family status were used as one analytical category, in most cases this distinction is not captured. Other intersections that are mentioned to some extent are gender/class and gender/age, but gender and 'having a child' is the most frequent inequality intersection. The categories ethnicity, sexuality, and disability do not figure in this sub-issue.

The sub-issue **care work** is the **most de-gendered one**. Gendered intersectionalities are only found in relation to gender/class (improve social security for female relatives who care), and only once openly in relation to gender/class/citizenship status. This finding is surprising given the fact that the whole debate contained clear aspects of gendered and ethnicised dimensions of citizenship (private illegal care arrangements involving women from Eastern Europe performing care). It seems that by de-gendering and de-articulation of citizenship status/ethnicity, attention to intersected inequalities became focused on other categories, namely age/class, which were largely de-gendered. The debate was not about the working conditions of women from Eastern Europe, but about how to make de-gendered care affordable for elderly de-gendered people in need of care. Open intersectionality of gender/citizenship status/ethnicity is only found once, and the de-gendering is consistent.

The sub-issue **tax-benefit policy** is also largely **de-gendered**, with the notable exception of right-wing parties, Social Democratic and Green Party voices, which address the intersection of gender/age/citizenship status, and gender/citizenship status/family status. The most prominent example is the right-wing example of a 'mother from a third world country coming to Austria to get social benefits'. Thus, gendering occurs both in the right-wing context of invoking the threat of 'mothers

from the third world', where the category 'citizenship status' can also be seen as invoking ethnicised notions, and in the context of demanding that third-country national mothers should get the same financial support for children as Austrians. The debate about child-care benefits for third country nationals sees a variety of inequalities addressed, such as citizenship status/class/family status (benefit for third country nationals with child and proof of income), or age/citizenship status (children with legal status are welcome), while sexuality, disability and (open) ethnicity are not addressed.

The de-gendered intersection of the inequalities age/class and notions of illness or disability (elderly people in need of care cannot afford care) is frequent, although the exact relationship between disability and 'being in need of care' is not clear.

The question whether the issue of demographic change has had an impact on the presence of gender, sexual orientation, race, or class can be answered as follows. The issue of demographic change is underlying the debate on **care work**, and it seems that gender is rarely addressed, while class and age are. The dominant concern in the debate is how care can be made affordable for elderly people in need of care, while the gendered dimension of care work is usually not expressed. Ethnicity/citizenship status is also not addressed in the debate, even though the legal change analysed concerns care work performed by Non-Austrian women mainly from Eastern Europe.

In the sub-issue **tax-benefit policies**, demographic change is addressed in the idea that Austrian families should be encouraged to have more children. Whether or not and under what conditions children of third-country national mothers in Austria should get financial support is at the centre of the debate, with the right-wing parties using ethnicity/citizenship status as legitimate ground for restricting resources, and as a marker for the worsening financial situation of Austrians ('Social tourism from third-world countries' as endangering social benefits for Austrians). In this debate, gender seems to be sidelined by ethnicity/citizenship status.

In the **other sub-issues**, demographic change is not an issue.

6.3 Changes in Intimate Citizenship

Turning points influencing the appearance of intersectionality in Intimate Citizenship are difficult to detect, other than a major change in government in 2000, when a coalition of the Social Democratic Party and Conservative Party ended and, for the first time, a coalition between the Conservative Party and the right-wing Freedom Party was formed. This conservative-right wing coalition was renewed in 2003, and lasted until 2007.

The intersectionality that is mostly referred to in Intimate Citizenship is gender and marital status, which is present in all three sub-issues. Regarding inequalities other than marital status, sexual orientation is relevant, but hardly as intersectionality. If at all, the 2003 decision of the European Court of Human Rights against Austria ('Karner vs. Austria) followed by the complete decriminalisation of all forms of homosexual acts in 2004, as well as in 2005 the introduction of 'sexual orientation' as a ground of discrimination for the first-time into Austrian employment legislation, can be considered turning points regarding the inequality sexual orientation in general. But despite this advancement, the gendered dimensions of sexual orientation remain largely unaddressed; if sexual orientation is articulated as a relevant inequality axis in debates on Intimate Citizenship, it is usually not intersected with gender. The notable exception is the NGO voice in the **sub-issue reproduction** demanding access to artificial reproductive medicine for lesbians and lesbian couples. The sub-issue reproduction also contains the most interesting aspects concerning intersectionality. Funding for treatment is provided according to gender and marital status (only for married couples and life-partners, which at the time included only heterosexual couples). Gender is intersected with age (funding for women not older than 40, men not older than 50), as well as notions of the 'able body' (funding differentiated according to certain forms of sterility in women, but all forms of sterility in men). Class is present, but not openly intersected with gender (persons having private health insurance). Gender and disability/able-body does not figure as a prominent intersection in the other sub-issues of marriage, separation, divorce and same-sex partnership. Gender and age does not figure in marriage, separation, divorce, while it is present to some degree in same-sex partnering when referring to the age limits for sexual acts between two men if one man is above 18, the other one below 18, and present in reproduction in gendered age limits for funding artificial medicine.

Thus, a tentative conclusion might be that **in the sub-issues discussed after 2000, a greater variety of intersectionality can be found**, and that in the earlier sub-issue (marriage, separation, divorce), using policy discussed in 1999/2000, only the intersection of gender and marital status is relevant.

6.4 Changes in Gender-based Violence

Turning points influencing the appearance of intersectionality in Gender-based Violence are hard to detect, since all documents selected concern one governmental period from 2003-2007 with a government coalition of the Conservative Party and the right-wing Freedom Party (and later right-wing party Association Future Austria).

We cannot conclude that intersectionality in Gender-based Violence has become generally more present within the period of time analysed (documents ranging from 2004 until 2007), and there is no consistent pattern across the various sub-issues. The presence of intersectionality varies crucially from sub-issue to sub-

issue. As for the mere presence of gender, it is obvious that the sub-issue 'sexual assault' is consistently gendered, while both 'domestic violence' and 'trafficking' show a large degree of de-gendering. Regarding the presence or absence of inequalities, it is notable that disability and sexual orientation as inequality axes are entirely absent from debates on gender-based violence. This might raise questions as to the possible 'strategic de-gendering' of issues.

While sexual assault (stalking) is consistently gendered, intersectionality appears in the presence of gender and class, and gender and marital status. There is a notable absence of other inequalities, such as ethnicity or citizenship status, and disability.

In domestic violence, intersectionality is present in gender and marital or family status in the legal texts, while marital/family status is de-gendered in other documents. The intersectionality of gender and class is notably absent. The intersection of gender and ethnicity/citizenship status is interesting; it appears explicitly in the governmental CEDAW report mentioning migrant women, and appears in a somehow de-gendered version (with clear gendered subtext) in the voice of a governmental Conservative Party MP, treating domestic violence in the culturalised context of 'barbaric crimes' such as forced marriage and FGM. This can be considered as a new form of gendered ethnicity in the Austrian policy context.

In trafficking, gendering and de-gendering seem to occur equally. If gender is intersected, it is with age (underage prostitute), marital status (women trafficked into marriage), and citizenship status and class (women affected by trafficking threatened by deportation due to lack of financial means). It is noteworthy here that the governmental report makes an intersection with citizenship status and emphasise ethnicity (trafficking as being connected to harmful traditional practices affecting women in Austria), while NGO and Green Party voices emphasise the intersection with citizenship status, not ethnicity (migrant women victims of trafficking threatened by deportation).

Thus, it can be concluded that in Gender-based Violence, ethnicity as intersected with gender is absent for sexual assault. For the other sub-issues, it is dealt with rather differently according to which voice is speaking. An intersection of gender and ethnicity is raised by governmental voices, while citizenship status and gender is emphasised by NGO and Green Party voices. The government sees gender and ethnicity as problematic, while for NGOs it is gender and citizenship status. Marital and family status as de-gendered inequality axes are present mostly in domestic violence, present as intersectionality of gender and marital status only once in domestic violence, and twice in sexual assault.

Class is present almost exclusively in the sub-issue stalking, and here mentioned both by the governmental report and by the NGO and Green Party. Domestic violence is consistently treated as not being about class, disability is consistently

absent, and age is referred to only once in the sub-issue trafficking (protection of underage women victims).

6.5 Summary and comparisons

In **general gender+ equality policies**, despite the 2005 arrival of the inequalities ethnicity, religion or belief, sexual orientation and age as ‘official’ grounds of discrimination in general legislation and machinery, the concept of intersectionality has largely not arrived in the practice of gender+ equality bodies. The intersectionality of gender and another ‘ground of discrimination’, notably ethnicity, is rarely invoked before the equal treatment machinery, and virtually absent from decisions of the more authoritative body. Women face considerable obstacles and disadvantages depending on which other inequality axis they are positioned. In that sense, gender+ equality policies are not equally inclusive of all kinds of inequalities, but create a hierarchy of inequalities offering very different levels of protection from discrimination. This applies for both the formal institutional level and the substantive level at which inequalities are considered in practice. It also means that gender (inequalities) are usually not considered when dealing with discrimination of other grounds of inequality. We might conclude that the inclusion of other inequalities thus did not lead to a significantly heightened awareness of gendered inequalities in the practice of gender + equality policies.

Non-Employment varies greatly regarding intersectionality. The **Gender pay gap** is significantly more gendered than the other sub-issues, and intersectionality is present consistently in gender/**class** and gender/age. Other intersections, such as gender/ethnicity, gender/sexuality, gender/marital status only appear in legal documents, and are absent from all other documents analysed. Disability is not mentioned at all. **Reconciliation** is considerably less openly intersected, but gender/family status (‘having a child’) is the most frequent inequality intersection. The categories ethnicity, sexuality, and disability do not figure in this sub-issue, while gender/class and gender/age are found to some extent. **Care work** is the most de-gendered sub-issue. Gendered intersectionality is only found in gender/**class**. It seems that by de-gendering and de-articulation of citizenship status/ethnicity, attention to intersected inequalities was focused on other categories, namely age/class. Open intersectionality of gender/citizenship status/ethnicity is only found once.

The sub-issue **tax-benefit policy** is also largely de-gendered, with the notable exception of right-wing parties, Social Democratic and Green Party voices, which address the intersection of gender/age/citizenship status, and gender/citizenship status/family status. Gendered intersections thus occur both in the right-wing context of invoking the threat of ‘mothers from the third world’, where the category ‘citizenship status’ can also be seen as invoking ethnicised notions, and in the

context of demanding that third-country national mothers should get the same financial support for children as Austrians. Other intersections addressed are citizenship status/class/family status, or age/citizenship status, while sexuality, disability and (open) ethnicity are not addressed.

The issue of demographic change is underlying the debate on **care work**, and it seems that gender is rarely addressed, while class and age are. The dominant idea in the debate is how care can be made affordable for elderly people in need of care, while the gendered dimension of care work is usually not expressed. Ethnicity/citizenship status is also not addressed. In the sub-issue **tax-benefit policies**, demographic change is addressed in the idea that Austrian families should be encouraged to have more children. Gender seems to be sidelined by ethnicity/citizenship status.

In **Intimate Citizenship**, the intersection gender/marital status is present in all three sub-issues. As for other inequalities, sexual orientation is relevant, but hardly as intersectionality, and the gendered dimensions of sexual orientation remain largely unaddressed. Transgender as a category is not present. The sub-issue **reproduction** contains the most interesting aspects concerning intersectionality; apart from gender/marital status, gender is intersected with age and notions of the 'able body'. Class is present, but not openly intersected with gender. Gender and disability/able-body does not figure as a prominent intersection in the sub-issues **marriage, separation, divorce** or **same-sex partnership**. Gender and age does not figure in **marriage, separation, divorce**, while it is present to some degree in **same-sex partnering** and in **reproduction**. A greater variety of intersectionality can be found in the sub-issues discussed after 2000, while in marriage, separation, divorce, using material from 1999/2000, only the intersection of gender and marital status is relevant.

In **Gender-based Violence**, we cannot conclude that intersectionality has become generally more present in the period of time analysed. The presence of intersectionality varies crucially from sub-issue to sub-issue. As for the mere presence of gender, **sexual assault** is consistently gendered, while both **domestic violence** and **trafficking** show a large degree of de-gendering. Disability and sexual orientation as inequality axes are entirely absent.

Ethnicity as intersected with gender is absent for sexual assault. For the other sub-issues, it is dealt with rather differently according to which voice is speaking. It is raised by governmental voices, while citizenship status and gender is emphasised by NGO and Green Party voices. The government sees gender and ethnicity as problematic, whereas for NGOs it is gender and citizenship status. Marital and family status as de-gendered inequality axes are present mostly in domestic violence, present as intersectionality of gender and marital status only once in domestic violence, and twice in sexual assault. Class is present almost exclusively in the sub-

issue **stalking**, while **domestic violence** is consistently treated as not being about class, and age is referred to only once in the sub-issue trafficking. While **sexual assault** (stalking) is consistently gendered, intersectionality only appears in the presence of gender and class, and gender and marital status. There is a notable absence of other inequalities, such as ethnicity or citizenship status, and disability. In **domestic violence**, intersectionality is present in gender/marital or family status in the legal texts. Gender/class is notably absent. Gender/ethnicity or citizenship status (migrant women) appears explicitly in the governmental CEDAW report, and appears in a somehow de-gendered form in parliamentary debate by a Conservative Party voice in the culturalised context of 'barbaric crimes' along with forced marriage and FGM. In **trafficking**, gendering and de-gendering seem to occur equally. If gender is intersected, it is with age (underage prostitute), marital status (women trafficked into marriage), and citizenship status and class (women affected by trafficking threatened by deportation due to lack of financial means). It is noteworthy here that the governmental report makes an intersection with citizenship status and emphasises ethnicity (trafficking as being connected to harmful traditional practices affecting women in Austria), while NGO and Green Party voices emphasise the intersection with citizenship status, not ethnicity (migrant women victims of trafficking threatened by deportation).

7 Conclusions

What are the implications of different versions and forms of intersectionality for the quality of gender+ equality policies?

The intersection of gender/ethnicity/citizenship status is a source of controversy and debate, and in many cases it is not entirely clear which inequality axes are referred to when, for example, mentioning 'migrant women' or 'all women living in Austria'. Some references bear clear connotations of ethnicised understandings of a problem ('mothers from third world countries', 'harmful traditional practices affecting women in Austria'). Religion in the form of Islam may be invoked as a subtext, but it is not directly spelled out in the policy debates analysed. It is clear from the analysis that governmental voices emphasise the cultural (or ethnic) dimension of gendered intersectionality, while NGOs tend to emphasise the citizenship status dimension.

How are inequalities and their intersections conceptualised in terms of structure and mechanisms?

Intersectionality is mainly expressed as added grounds of discrimination (or multiple disadvantage). In most cases, it means women who are classified under another inequality axis, but usually not men. Women are no longer seen as a homogenous group, but as a group that is diversified by various categories, while men's position in society remains largely unaddressed. How exactly inequalities work to put a person into a subordinated position is very rarely explicated; most documents simply state the group of persons affected by multiple discrimination. Structures, privileges and hidden norms (such as heteronormativity) are hardly referred to, and if they are, it is mostly by NGOs and Green Party voices.

To what extent does context matter in the (re)production of inequalities across Europe? How important is institutional context, legal tradition, issue history?

Context matters in many different ways for the (re)production of inequalities in Austrian gender+ equality policies. It is striking that the debates about **gender equality** during the coalition government of Conservative Party and right-wing Party BZÖ focussed on the struggle over what gender equality should be about: whether it is men suffering from discrimination and gender equality policies should therefore target men and their needs; or whether it is about women suffering from discrimination and needing special measures for advancing in federal service.

Regarding the inequalities **ethnicity, religion or belief, sexual orientation and age**, it is clear that they first appeared in Austrian gender+ equality policies due to EU

pressure to implement the anti-discrimination directives in 2004, and not before. Regarding **sexual orientation** especially, the legal tradition of a very late decriminalisation of all forms of homosexual acts following a decision by the European Court of Human Rights may be seen as one explanatory factor for why sexual orientation was not previously present as a ground of inequality. In addition to the legal tradition, a historically strong link of the Roman-Catholic Church and the Conservative Party (ÖVP), along with the reluctance of individual Conservative Party decision makers to extend equality according to sexual orientation, might serve as additional explanatory factors. Regarding **ethnicity**, it is evident that mostly migrants are sometimes presented as being discriminated against on grounds of ethnicity, religion or belief, and **citizenship status**, or a combination of these, and that it is hard to say which inequality axis is referred to when talking about inequalities faced by migrants. One notable exception is the mention of Roma women as being discriminated against on grounds of ethnicity. In laws and legal texts, **citizenship status** of third country nationals and asylum seekers is seen as a legitimate ground for unequal treatment, whereas NGOs refer to 'elimination of discrimination regardless of ground of discrimination' for migrants as a goal to be achieved. It is unclear whether they explicitly include citizenship status in this, or ethnicity, or religion or belief, or all of these axes.

What attention must be paid to other structural (in)equalities in the making and implementing of European gender equality policies?

While certain inequalities are mentioned much more often than others, it seems that integrative gender equality policies should pay consistent attention to the fact that a gendered group of people is not necessarily heterogeneous on other inequality axes. Certainly, the effects of (recognised) categories of inclusion and exclusion such as age, ethnicity, religion or belief, sexual orientation, and disability must be mentioned, but also categories that are not yet seen as 'grounds of discrimination', such as citizenship status and class. The consequences for individuals classified under different inequalities will vary strongly according to policy context. Marital status here has an interesting status: it is partly recognised as a subcategory of gender under grounds of discrimination in employment, whereas in other policy fields, marital status is seen as a highly legitimate ground for unequal treatment (Intimate Citizenship).

Implications of findings in the context of Crenshaw's analysis

In Austrian policy texts on Gender-based Violence, the intersection of gender with ethnicity/citizenship status/religion is hardly ever addressed, apart from notions of ethnicised 'harmful traditional practices'. If it is addressed, except for a civil society voice, the intersection of gender and ethnicity/citizenship status (and possibly, but not openly expressed) religion is not seen as a matter located in polity (structural conditions), but as a matter of intimacy and culture (ethnicised violence caused by

particular ‘cultures’). Gender is usually addressed as ‘women’, not men or gender relations in society. **Structural conditions causing particular groups of women to be particularly vulnerable to violence are hardly referred to.** This blindness in the policy documents seems not to be limited to the inequality axis ethnicity/citizenship status/religion (migrant women), but also encompasses other inequalities such as class, age, and disability. **The only inequality axis that is considered throughout Gender-based Violence debates as intersected with gender is marital status.** While class is considered as an inequality axis in the sub-issue sexual assault, it is absent from domestic violence and hardly addressed in trafficking. Thus, one might conclude that the **consistent attention to the intersectionality of gender and marital status** in debates on gender-based violence **goes hand in hand with a consistent lack of attention for other inequality axes and structural conditions** that cause groups of women positioned on these other inequality axes to be affected by gender-based violence.

Implications of findings regarding questions derived from literature review

- **Inequalities are seen as added** rather than as mutually constituted, whenever an explicit reference to multiple inequalities is made.
- **Gender is sidelined by other inequalities depending on the policy context.** In General Gender+ Equality Policies, gender can be seen as sidelined in the sense that it is seen as one ground of discrimination along with several others, and that institutional resources for the body dealing with gender are restricted since it has to deal with other inequalities as well, while the bodies dealing with other inequalities do not have to consider gender. Notably gender is sidelined if the focus is on age, or class, such as in the Non-Employment debate on care work, and to a lesser extent, in the Intimate Citizenship debate on reproduction. If the focus is on sexuality, such as in the Intimate Citizenship debate on same-sex partnership discrimination, gender is either underlying the debate in a hidden way, or explicit in discrimination of gay men, but gender equality is not a concern expressed except by the NGO voice.
- **Intersectionality is expressed as being about gender and ethnicity in a way that,** depending on the policy context, but especially visible in Gender-Based Violence and Non-Employment, **is conflated with citizenship status and, possibly, notions of religion** (‘third country national mother’), most notably by right-wing party voices. Intersections of gender and class are expressed more clearly, and tend to be expressed by NGO voices.
- **Gender is hardly seen as affecting citizenship status.** Gender (husband exercising power over wife) is rarely seen as influencing

women's ability to free themselves from gender-based violence (e.g. in the NGO argument that men financially pressurize women during mediation after divorce), but it is not directly expressed as influencing women's citizenship status. Women's citizenship status is not seen as either hindering or facilitating their ability to escape gender-based violence.

- **How is ethnicity (and class) seen as affecting nationality/citizenship status?** Ethnicity is hardly ever openly addressed, but the inequality axis is evoked indirectly and conflated with nationality/citizenship status especially in Non-Employment, Gender-based Violence, and in the practice of General Gender Equality Policies. Wordings used are mothers from third world countries, illegal carers, trafficked women threatened by deportation and foreign female employees.

The implications of these findings might be that **structural aspects of gender and various other inequalities must be explicitly addressed in policy making, and that the interconnectedness of various inequalities with gender, notably class, citizenship status, sexuality, age and disability needs to be consistently addressed** according to the specific policy context.

It is of vital importance that the question '**who is affected by a policy**', and the **question of the distribution of rights and resources is asked from a gender perspective** in order to avoid the impression of gender-neutral policies or blurred inequality categories. It is also important that the assumption of homogenous gendered groups such as 'women' and 'men' is broken down according to other inequality axes. A focus on the intersection of gender and one other inequality axis (e.g. marital status) alone must be judged as being detrimental to the development and practice of inclusive gender+ equality policies, as the attention in the policy process seems to focus on this inequality and no longer consider other ones. If such policies are oriented towards the goal of equal participation in society and autonomy over one's life for each person, the **structural dimensions of gender, of the other grounds of discrimination (age, disability, sexual orientation, ethnicity, religion), and of class and citizenship status must be made explicit** in each policy process as a first step.

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